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TO

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Sixth and last Volume of the Session.

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HANSARD'S
Parliamentary Debates

During the FIRST SESSION *of the* THIRTEENTH PARLIAMENT *of the United Kingdom of* GREAT BRITAIN *and* IRELAND, *appointed to meet at Westminster, 15th November,* 1837,
in the First Year of the Reign of Her Majesty

QUEEN VICTORIA.

Sixth Volume of the Session.

HOUSE OF LORDS,

Monday, July 9, 1838.

MINUTES.] Petitions presented. By Lord KENYON, from the Treasurer of the Benchers of the Middle Temple, to exempt the Preacher belonging to that Society from the provisions of the Clergy Residence Bill.—By Lord ASHBURTON, from Liverpool, and another place, for reduced Postage.—By the Duke of CLEVELAND, from West Horton, and other places in the counties of Durham, Norfolk, and Cumberland, for the Abolition of the Negro Apprenticeship system.—By Lord REDESDALE, from a place in Surrey, against the Sale of Beer Act.

THE UNIVERSITIES.] The Earl of *Radnor* rose to ask a question relative to any steps which had been recently taken in the Universities for the purpose of effecting a reformation in their statutes. It would be in the recollection of their Lordships, that in the course of the last Session of Parliament he had moved for a committee of inquiry into the statutes of the different colleges, for the purpose of recommending such alterations and amendments in them as, after mature consideration, might be deemed advisable. That motion had been withdrawn by him in consequence of the assurance given by the noble Duke (Wellington) on the one hand, and by the noble Marquess (Camden) on the other hand, that the Heads of Houses and other leading members of the Universities were applying themselves to this subject, and that they meant to propose a very considerable reform. In consequence of that statement, he had withdrawn his motion; and he was now anxious to know what progress had been made in the work of reformation? What proceedings had taken place by the direction of the individuals alluded to by the noble Duke and the noble Marquess? So far as he understood, nothing had been done except the abolition of the oath heretofore administered on matriculation—an alteration in the system which he undoubtedly considered to be a very great improvement. That, so far as he was informed, was the only substantial alteration that had been made at Cambridge, and he should feel obliged to the noble Marquess to state whether that was, or was not, the fact? Steps, it was said, had been taken at Trinity College, Cambridge, to effect a general revision of the statutes, and he should be glad to know what progress had been made in that revision. Such was the statement made, and he believed (but the noble Marquess could set him right if he were wrong) that nothing had since been done since August last, beyond the appointment of a committee to revise the statutes. Supposing that committee to be sitting, its progress, if he were correct in his information, was exceedingly slow. Now, he should be glad to hear, if Trinity College had taken the question up, why it had not moved with a little more rapidity? Two other colleges (he spoke, be it observed, from the information of others) were said also to have applied themselves to this question. In Queen's College, he had heard, some degree of revision had taken place. With respect to Christ's College, he understood, that some of the leading members had expressed a wish that a certain degree of reformation should be effected in its statutes; but an influential individual interfered, and it was held, that no alteration could be effected without legislative assistance, and so the matter ended. In Trinity College, since last year, they appeared to have done nothing at all in this business, and the same observation applied to Christ's College. Now, with respect to the University of Oxford, he did not know, that anything effectual had been done in any of the colleges in the way of revising the statutes. He apprehended, that nothing had been done. He had heard some time ago a rumour that one of the colleges had made an effort at reformation, but it was not successful. The colleges, he believed, had done nothing individually; and perhaps it might justly be said, that the University itself had done little more than make a show. He should briefly advert to what he understood was the amount of alteration which had actually been made by the University of Oxford in its statutes since last year. In the first place, he begged leave to draw the attention of their Lordships to the statement which, in the last Session, the noble Duke had made with reference to this subject. The noble Duke then said, "I am one of those who are of opinion that some amelioration ought to take place in the statutes; and soon after I was placed in the situation of Chancellor I recommended that something of that kind should be done; and I believe the subject has been under consideration from that time till now, with a view to carrying those ameliorations into effect." Now, what any individual college had done he knew not, and what the University had done might be very shortly described. For several years past there had been in the University of Oxford some conversation as to the revision of the statutes; and at the visitation in November last, some alterations were made, chiefly in the first three chapters of the statutes. These alterations amounted to very little. Lecturers were no longer prohibited from lecturing in Lent, and the reading of prayers by the Chancellor on certain occasions had been dispensed with. The old oath taken by the young men on entering college had been abolished, an alteration of which he highly approved. The third chapter, which related to the duties of tutors, had been slightly altered. It was admitted, that a great alteration here was not only desirable, but absolutely necessary. It was hoped, that some arrangement would be made by that admirable body of men, so as to divide their duties more than had hitherto been the case. Here an opportunity was given for making an extensive and useful alteration, but nothing was done except the abolition of certain punishments. After the first, second, and third chapters had been dealt with, one would naturally suppose, that those who were concerned in the work would have proceeded with the fourth chapter, which was a very important one. They had not, however, taken that very plain and obvious course. After having revised the first, second, and third chapters, they took a very long stretch, and proceeded to the fifteenth chapter, which referred to the regulation of the manners and conduct of the young men in the University. Here some alterations were made in the provisions which related to the dressing of the hair, the playing at football, and the keeping of a horse or servant; but the most remarkable part of this chapter, as altered, was that which referred to libel, by which any young man, accused of having promulgated a libel against any person, or of having such a production in his possession, might be cited before the Vice-Chancellor, called on to produce a copy of the libel, compelled to account for his possession of the paper, and if he could not give a satisfactory statement as to his connexion with it, he might, at the will of the Vice-Chancellor, be imprisoned or banished from the

University, over and above making satisfaction to the individual said to be aggrieved. This provision, he contended, was new to a certain extent. Formerly this part of the statute contained two sections relative to libel—the one as to written libel, the other as to contumacious words spoken. These two sections had now been united, and severity of punishment was inflicted where it did not before apply. A man was liable to punishment if he did not produce a copy of the alleged libel, and he was obnoxious to punishment if he did.

The Duke of *Wellington* said, that the noble Earl had commenced what he had stated to their Lordships by adverting to what had passed in that House upon this subject on a former occasion. The noble Earl, however, did not quote accurately what had there passed, and he must therefore remind their Lordships what did pass, because it was essential, that their Lordships should be acquainted with what then took place, as it rather threw a light on the questions put by the noble Earl. The noble Earl in the course of the last Session of Parliament had proposed to their Lordships a bill for the purpose of creating a commission of inquiry into the statutes of the colleges of the two Universities of Oxford and Cambridge. In the course of the discussion which took place on that bill, which was ultimately rejected by their Lordships, a right rev. Prelate who had distinguished himself as the head of a college at Oxford, proposed, that inquiry should take place into the statutes. Their Lordships, however, not only rejected the bill of the noble Earl, but also the right rev. Prelate's proposition for an inquiry. On that occasion it appeared to their Lordships that it would be desirable that the statutes of the Universities, as well as of the several colleges of which they were composed, should be revised and reconsidered, with a view to see what alterations could be made. The noble Earl, however, after the rejection of this bill, had thought proper to bring forward his measure in another shape, and, instead of a bill creating a commission, proposed the appointment of a committee to inquire into the various statutes of the Universities. Previous to the noble Earl's motion for that committee, he had had some conversation with the Heads of the University of Oxford, and he had been assured that there existed a desire to review those statutes, and that the work was actuallyi n progress. He thought, that this was a correct outline of what had passed, and the noble Earl had now come forward, as he said, to inquire what progress had been made. Now, the noble Earl had not only asked, but had answered his own question. He had, however, called for details as to the progress which had been made, and had applied to his noble Friend (Lord Camden) and himself, to give him an answer, which the noble Earl probably expected to correspond precisely with the information which he had received. The noble Earl had not only answered his own question, but had been pleased to comment on what had been done at the Universities. It appeared, according to the noble Earl's showing, that the Universities had done something, and he could tell the noble Earl that more had been done than he had mentioned. What had been done, however, was not satisfactory to the noble Earl, who had been pleased to comment in very strong terms upon this commencement, for it was only a commencement, of reform, and, as if the noble Earl had not commented strongly or severely enough upon what had been done, he had been prompted by one of her Majesty's Ministers, the noble Baron the Chancellor of the Duchy of Lancaster. Now, he thought, that the Universities of Oxford and Cambridge had a right to look for protection against such comments as the noble Earl had made on those alterations which had already been carried into effect by the University of Oxford, and that, at all events, they had a right to expect, that the noble Earl would not be prompted and encouraged by her Majesty's Ministers in making these comments. Though the noble Earl had answered his own question, he could, however, assert, that the noble Earl had not adverted to all that had been done. The noble Earl had referred only to what had actually passed, forgetting that though some laws had not passed, they had been considered by the board of heads of houses and by the several colleges, and he thought he might safely say that the University of Oxford had not been idle in the prosecution of these objects. He protested against that House entering into a consideration of these bits of statutes on the present occasion, and he would give no answer to the noble Earl's remarks upon them. He called upon their Lordships to allow the University of Oxford to proceed with the revision of their statutes, with a view to make such alterations as appeared to the authorities of the University proper to carry into effect. After the work had been completed, if it did not appear to their Lordships to have been executed in a satisfactory manner they could express such an opinion and adopt such a course as might seem most proper to their Lordships, but it was not fitting for any Members of that House, and particularly by a vote, to interfere with measures which the House of Convocation had under consideration. With respect to the colleges, he had received accounts from several of them that they were reviewing their statutes. Several of the colleges were in communication with their respective visitors, and others were in communication with the fellows of the college with whom they must communicate in order to make effectual reforms in their statutes. They were going on as well as they could at the present moment, and he entreated their Lordships to let them work out those reforms as they thought fit, and if they were not executed in accordance with their Lordships' wishes, it would then be time for that House to take such steps as might seem necessary.

The Marquess *Camden* was understood to say, that it could not be completed in a short time, to make alterations in statutes, in cases where it was necessary to go back so many years, and where so many legal questions must necessarily arise. He was, however, quite sure that in the University of Cambridge a strong inclination existed to make such alterations as time and circumstances had rendered necessary.

The Bishop of *London* would like to trouble their Lordships with a few words, as in consequence of the confusion which had prevailed, he had not enjoyed the privilege of hearing what had fallen from the noble Marquess. The noble Earl had stated, that one of the fellows of Christ's College had prevented any reformation being made in the statutes; but the fact was, that the parties who dissented were four fellows out of thirteen, and of these four, three had concurred in an appeal to the visitor; and, therefore, a sort of compromise had been entered into between the majority and minority. He thought it but right, however, to the parties who were charged with resisting improvement, so called, that he should tell their Lordships what were the alterations proposed. One of the proposals made was, to throw open all the fellowships to laymen, and to require that no person holding a fellowship should be obliged to take orders till he arrived at the age of thirty-one; whereas, it was evidently the intention of the founders of that society to make it an institution for persons designing to enter the Church. Another proposition was, to discontinue divine service during week days, and he was sure their Lordships would not say that a gentleman was the enemy of all improvement because, considering the objects for which the college was founded, he resisted that proposition.

Lord *Holland* begged to assure the House that he did not mean to comment on, much less censure, proceedings of which he knew nothing. He had heard what had fallen from his noble Friend, and it seemed to him rather unusual that a party should not only be judge and jury, but should also carry his own sentence into execution. Having been an humble member of that University for seven years, and remembering well the history of the expulsion of Locke and of the execution of Algernon Sydney upon proceedings exactly like the present, he could not avoid expressing his surprise that his noble Friend behind him (the Earl of Radnor) should have confined his case to a charge of the heads of the University, under their statutes forming judge and jury, and that he should have omitted to add, that they had actually taken upon themselves the execution of the law. He had, perhaps, been irregular when he interrupted his noble Friend, but he had felt anxious to put this point before their Lordships.

Lord *Brougham* remarked, that he thought it quite right for the noble Baron to have reminded the House of an act which, by the law of Parliament, had been declared murder. The University of Oxford had hanged a man for an unpublished libel under a statute which, though exploded by the law of the land, had taken refuge in the University of Oxford. It was true the man had composed a libel, which was found in his possession. Now, by the law of the land, he could not be tried until he had published it, publication being the offence, but by the University statute he had been tried for composing, and not for a publication, inasmuch as it did not appear that he had shown it to a single individual. It was true there was an old dictum to the contrary, and he well remembered that Mr. Justice Holroyd, for whose opinion he entertained the highest respect, expressed some doubts as to whether publication was necessary to constitute the offence. But what he wished to know from the noble Marquess opposite (Camden) was, whether this was now also the law of Cambridge? He did not go along with the noble Duke opposite in thinking that Oxford had power to do exactly as she liked, for she had not power, under her statutes, to amend them and make them conformable to the laws of the land. To enable her to do this, and to give her aiding and ancillary laws, was the object of his noble Friend (the Earl of Radnor). The right rev. Prelate said, it was wished to throw open certain fellowships, but it was impossible, for so long as subjects could be found to fill them, even the Court of Chancery had not the power to throw them open. His noble Friend wished to invest them with those powers.

The Duke of *Wellington* reminded the noble and learned Lord of that which both he and the noble Earl opposite (Radnor) appeared to forget, that by no statute could the University make any statute contrary to the law of the land. This conversation showed the inconvenience of discussing a great matter by little bits of some statutes and on mere corners of subjects not fairly brought before the House, or properly brought under consideration. He was sure the principle he had stated was correct—namely, that the University had no power to make statutes contrary to the law of the land.

Lord *Brougham* quite agreed with the noble Duke, but the University had power to pass statutes for discipline. There were many of the statutes passed both by the Universities of Oxford and Cambridge which were totally repugnant to the law of the land, but still they had reference to the discipline in both Universities. They might hold it necessary to prevent even the composition of libels, but still that was clearly with a view to discipline. Again, the discipline with regard to debts in both Universities wholly differed from the law of the land.

The Bishop of *Glocester* had never heard of such a law, as that which had been mentioned in the University of Cambridge. He must be allowed to add, that he had heard it stated, with great surprise, that the University still laboured under the discredit and disgrace of having expelled that illustrious scholar, Locke, on some similar charge of libel. He had thought, that matter had been long ago refuted. The noble Baron who had mentioned it, would find that the University of Oxford had nothing whatever to do with the expulsion of Mr. Locke. It was true, that distinguished man had been deprived of his tutorship at Christchurch, but by whom? Why, by the power of the Crown, expressed by the then Secretary of State, the Earl of Sunderland. There was still extant a curious correspondence between the Earl of Sunderland and Bishop Fell, then Dean of Christchurch; and, from that correspondence, it distinctly appeared, that by the authority of the Crown, Mr. Locke had been deprived of his tutorship.

Subject dropped.

PLURALITIES.] The Archbishop of *Canterbury* moved the Order of the Day for the committal of the Benefices Plurality Bill. He said, he should not detain their Lordships, for the number of amendments and corrections was so great, that they could hardly be discussed with any advantage till the bill had been reprinted. He should, therefore, wish to go into Committee, put in his amendments—any other noble Lord might move for leave to do so—and that the bill then be printed.

Their Lordships went into Committee.

The Bishop of *Rochester* objected to the third clause, as bearing rather hard on the clergy without any corresponding advantage, and moved that it be struck out.

The Bishop of *Glocester* said, this was a bill for limiting pluralities, and encouraging residence, and therefore promoting the more efficient discharge of their spiritual duties; but this clause would tend to neither one nor the other. It was not to prevent the holding of cathedral preferment, but that it should not exceed a certain sum; if the cathedral benefice or preferment amounted to 1,000*l.*, the holder must not take any preferment above 500*l.* He could not think what reason there was for such a proposition, and believed, that those who introduced the bill into the other House could hardly have taken the whole of the matters connected with this subject into consideration.

Clause struck out. A number of amendments having been introduced, the

House resumed. Bill reported, and ordered to be reprinted.

POOR-LAW (IRELAND).] The Order of the Day for resuming the adjourned debate on the Poor Relief (Ireland) Bill, was read.

Viscount Melbourne moved, that the bill do now pass, when

The Marquess of *Londonderry* said, it was not his intention to take up their Lordships' time by entering into any discussion either of the principle or of the details of the bill in its present advanced stage; but he thought it was highly desirable that those noble Lords who, like himself, were opposed to the measure, should have an opportunity of recording, by a final vote, their opinions in regard to that most important measure. He considered the bill, after the full consideration which their Lordships had given it, and notwithstanding all the amendments which had been made in its various clauses, to be still highly objectionable; and, indeed, he thought, that the amended bill was worse than the bill which had been sent up to them from the other House of Parliament. Entertaining such sentiments, and persuaded that the bill, instead of being productive of good, would be productive of the greatest evils, he felt bound to give it every opposition in his power; but, at the same time, he felt that it would be in extremely bad taste, after the discussion which the measure had already undergone, and the attention which their Lordships had given to its details, to take up their time on the present occasion. Ireland was almost unanimous in its opposition to this measure, and every class of persons looked to the passing of the bill with the greatest alarm. Both landlords and tenants, as well as the poor themselves, were opposed to the bill; and he deeply regretted, that his noble Friend (the Duke of Wellington) had not adopted a different course, and given his decided opposition to the measure. Feeling that the measure was pregnant with evil, and not calculated to yield any advantage to Ireland, he begged leave to move that the bill be rejected.

The Earl of *Limerick* also opposed the bill. No person had petitioned the Legislature to pass such a measure, and Ireland was almost unanimous in opposing the bill. Almost all the grand juries had petitioned against it, and every person of influence was opposed to it. He could tell their Lordships, that Ireland was at present in a state of ferment on the subject of this bill, and if it were passed, he feared, the greatest evils would result in consequence. He called upon the Irish landlords in that House, to oppose this highly objectionable measure, and he entreated them not to allow themselves to be swayed by party feelings, or to give their sanction to a measure which could not be attended with any beneficial effects. In the other House of Parliament, a large majority of the Irish representatives had given their votes against the bill, and as the people of Ireland, were almost unanimous in their opposition to the measure, he trusted, that time would be afforded for its further consideration, and that it would not be pressed through the House at that period of the night, and at that advanced period of the Session.

The Marquess of *Clanricarde* wished also to record his disappointment that the measure had come out of the Committee as bad as before it went in. The bill was a complete poor-law; all the benefits, if they would, of a poor-law, and all the evils, if evils there were, were to be found in it; it was a complete and perfect poor-law, settlement and all; and he objected to it, because it was a bad law to introduce into a country where it did not already exist, for it was held by the best authorities, and by the most practical men, that a poor-law—he did not allude to medical or other charities—was detrimental to the moral, the social, and the physical, condition of the people among whom it was introduced. He objected to it also because if it were introduced at all, the taxation ought not to be limited exclusively to one class of property; and, moreover, he objected to it because it conferred powers on the commissioners with which the servants of the Crown in this country, even in good times, were never invested, and which it was unwise now to give to any persons in Ireland; and those powers were more especially objectionable there, because the people of Ireland, with very few exceptions, were against the system altogether. They had been told, that the bill would work, and noble Lords had spoken with confidence of the machinery for working it; but it was not to be worked, like a watch or a steam engine by certain fixed machinery, it was to be worked by the people, and it would never work well, or effectually, unless it were taken up cordially by them. Their Lordships could not expect to see it succeed when the people of all classes—both the common people who were to receive, as well as those who were to pay, the rates, and who had a direct interest in the well-being of the labourers—were united in reprobating this bill. Against it, therefore, he would vote, though he did not trust or believe, that in that the last stage, they would be able to stop a measure which was bad, not only for what it did, but also for what it would prevent being done. It would put an end to all public improvements on a great scale. It would be considered as a full measure of relief to the poor, and for the next four or five years no more assistance would be furnished than was provided by this bill.

The Earl of *Mountcashel* protested against this dangerous and destructive measure, which he believed would bring rebellion and revolution upon the country, and he called upon the House to pause before it passed a bill fraught with such serious consequences. The bill was disapproved of by all classes in Ireland, and with the enormous amount of pauper population existing there, it would be impossible to carry it out in the spirit of its enactments. The farmers in that country were so poor, that they had only the value of the labour of their own hands; they could not, therefore, pay rates, and the effect would be, that the rates would fall on the landlords; but how could the landlords pay them? Many of them now had barely sufficient to maintain themselves. The landlords then objected to the bill, and not only the landlords, but all classes in Ireland, objected to it; the lower orders were as much opposed to it as the higher. It was, in fact, an English bill, and forced by the English upon the Irish landlords. They could not thank noble Lords for it, neither would Ireland thank them for it; and when the Irish thought upon the measure, their feelings would be less kind towards England than they now were. The poor-law commissioners, indeed, stated, that the population, unable to obtain subsistence by work for thirty-two weeks in the year, amounted to 2,385,000; and their relief, at 3*l.* a head, would take more than the whole rental of Ireland. Besides this, there were to be the expenses of building the workhouses, of furnishing them, the salaries of the officers and of the chaplains, the expenses of witnesses, and a rating for the purposes of emigration and of surveys. The building of workhouses alone would amount to upwards of a million; and, the commissioners, he believed, admitted, that the whole amount of expense incurred, would not be less than four millions. He would conclude by repeating, that if ever there were a question brought forward by Parliament likely to produce rebellion, this was that measure. The radicals and the Conservatives, the rich and the poor, in Ireland, were all opposed to it; and his only consolation was, that as the people and the priests united—although opposed by the landlords, yet assisted by Mr. O'Connell, had been successful in their opposition to tithes—they would equally succeed now, when not only the priests and the people, but also O'Connell, the Conservatives, and the Protestants of Ireland, were united under such circumstances, he might defy her Majesty's Ministers to bring the bill into successful operation in Ireland. There was no country where they better knew the use of passive resistance; there was no country in which agitation was so well understood; both these means would be brought into full play, and if their Lordships passed the bill, he was convinced that it would have no effect. Meetings would be held, the people would not elect guardians, passive resistance would be resorted to, they would show England that she could not impose such a bill on Ireland, and even if the army were doubled it would not be able to keep the peace.

Lord *Brougham* had so often had an opportunity of discussing this question, and he had now so little of the hope which cheered the noble Marquess (Londonderry), and had so little assurance of doing anything effectual in that stage, that he had hesitated, whether it were worth while to give his Lordship the discomfort, or himself the labour, to touch upon the various heads, however shortly, upon the present occasion; nor would he at all have ultimately made up his mind to say a few words on that stage, unless he thought that he might seem, by his silence, to have altered his opinion, or to have abated one jot of his objection to the bill, or that the alterations or amendments which had been introduced in the committee on bringing up the report, or even on the third reading of the bill, had at all mitigated his aversion. In order to avoid such a construction, he would shortly state, that he still entertained the same rooted objections to the bill which he felt when it was first broached, which all subsequent consideration, and the arguments which had been used in its favour, had only tended to confirm, not only his individual objections, but the objections entertained all over Ireland; where the repugnance and dislike, were not at all abated. He greatly differed, however, from a remark which his noble Friend had thrown out in one of the interlocutory conversations in which, during the passing of the bill, as well as in the regular debate, the measure had been discussed, and in which his noble Friend seemed to undervalue the merits of the poor-law commissioners in England. Their selection of functionaries under the English bill, founded an additional claim on the part of the board in England, to the gratitude of the public; for the selection of fit and proper persons to fill the offices in the State, was of the utmost importance. But as it was said of a great princess, "it was never found"—in answer to some one who had said, that by great good luck she had been served by able Ministers—"it was never found, that a weak prince was served always, although by chance he might be once served, by able statesmen." The choice of a proper public servant conduced more than one-half towards good government, and in the choice of Mr. Gulson, and indeed all the assistant commissioners, were, more or less, well chosen—all had, more or less, well discharged the duties of the important office—had done credit to the English commissioners, and had added to their claims upon the people. The whole country acknowledged, that no men had a more difficult task to perform, considering the nature of the case, and considering the multitudes with whom they had to deal—multitudes enraged by misrepresentations, with their minds so perverted by slander and by inflammatory topics urged at public meetings, as to leave the judgment no scope—than this difficult and most delicate of all the tasks intrusted to the hands of the commissioners, and of all the powers conferred upon them. But by the judgment they had displayed, tempered as it was with firmness and discretion, and above all, characterised by uniform moderation, by their long suffering under the attacks to which they had been exposed, not recoiling from those attacks, and yet not running forward; for it was as bad in such matters as in the field, to rush forward before the time for operations began; they had never been shaken in their intentions, they had never stirred before the time when it would have been criminal to have longer remained inactive; they had lived down, and acted down slander; and they had obtained, what they were from the beginning entitled to, the uniform, the general, the almost universal approbation of their fellow-citizens. Having thus referred to the commissioners, he would advert to the subject of the bill itself. And first, he objected altogether to the analogy drawn from England to Ireland; and if he wanted a proof that this analogy did not hold, he would appeal to the noble Lord opposite, who had stated, what indeed other noble Lords, and in his own communications had confirmed, that the highest and lowest ranks of society in Ireland, that all persons without distinction of politics, without variation of sect, Catholic and Protestant, layman and Priest, Radical and moderate —if, indeed, in Ireland there could be, which he humbly begged leave to doubt, such a thing as a moderate party—Radical and Whig, orange and green, and not only those who depended upon labour, but the poor themselves, objected to this pretended boon; one class, because of the burthen, which they considered a curse, and the other class because they considered it a sham and a pretence, and anything rather than a remedy for the evils of their situation. What, on the contrary, was the case in England? The new poor-law here was unpopular with one class—with the jobbers in the vestries and the jobbers in the workhouses, who naturally objected to suffer loss. It was disliked by the idle, the lazy, and the dissolute, who could work, and who could obtain work, but who would rather live on the charity of others than support themselves. It was passed, indeed, against the wishes, the apprehensions, the squeamish opinions, and the perverted tastes of these classes, for labour was not unnatural to man, it was the result of the original curse; but, in man's fallen state, it carried its sweets along with it, and it was a perverted taste rather to live on the labour of others than to work for bread. With the exception of these classes, limited in numbers, and with influence almost nothing, and with the exception of some few organs of the public press, who pandered to the feelings to which he had adverted —with these exceptions, the English bill was approved by the judgment, it was sanctioned by the experience, it was adopted as the result of deliberate inquiry, and it was pleasing as well to the honest, the virtuous, and the laborious, as it was to the upper and middle classes in the State. Above all, that bill found an uniform, a steady, and a cordial support from all classes to whose hands the practical execution of the measure was necessarily intrusted. Was that the case in Ireland? Nothing of the kind. The majority of the men to whom the execution must be intrusted were banded together against it: they abjured, they abhorred, they detested it. They said, "Give us any thing but this bill, if you mean to do good to Ireland." For the purpose of his argument, these persons might be wrong; this might be all a delusion, a fallacy—nay, it might be a string of fallacies and a succession of dreams; but unless they showed him that the nature of the Irish character was such that one month or six months of firm reflection would alter their strongest feelings, or warp their preconceived notions—except they showed him something in the Irish mind, and not only in the Irish heart, as well as in the understanding, some proneness to a difference from the more steady men in the north (although he did not believe that there was such a material difference between them), that the mere passing of the law, that the mere utterance of the words *La reine le veut*," would all at once convert these opposers, he would not say into active co-operators, but into calm and indifferent spectators, and that it would prevent resistance unless they showed him all that, though he anticipated no such miracle, the bill could never successfully operate. They talked of mechanism and of machinery, of springs and of checks, of similies (as was well observed by a noble Lord) drawn from mechanics; they talked as though, by the royal assent, they would get the steam-engine, but they forgot that they had not got the wheels and the piston and the regulator, unless, indeed, the commissioners were to act as the governor or regulator, and that the motive power would nevertheless be the feelings of men, men actuated by the prejudices and the feelings of human nature, and these men Irishmen, who, he would say, following the noble Lord and his own sources of information, were like one man bandied together against the execution of the measure. The structure of the machine, however, seemed to have been doubted by the engineer, for he found in the bill the celebrated 26th section, in which, after the previous regulations for the election of guardians, power was given to the commissioners to be used without any control; and here an observation or two might be made, only that they were so many that they would not be able to see the wood for the branches of the tree, that he was indisposed to enter upon them. The commissioners were trusted with the unrestrained power of appointing at their discretion as many paid officers as they pleased, provided that they were only to be in office for one year. If they wanted guardians, the commissioners might order a new election; and if that order were not complied with, they might exercise an unlimited power of appointing an unknown number, and of apportioning an unstinted salary. He had heard it stated, that there had been upwards of 7,000 applicants for appointments under this bill in Ireland already. Heaven help the unhappy commissioner who had to proceed to Dublin to have the whole power of the board intrusted to his hands, and to make these appointments at his good will and pleasure! He could not figure to himself a more awful scene than the levee of that gentleman in Dublin, as soon as the 26th section should be about to be put into force. He could imagine nothing more awful than beholding that Gentleman surrounded by these 7,000 cormorants for office. To attend to the working of the bill? To receive and attend to the instructions from Somerset-house! To read the bill even! He could not conceive the commissioner to do anything of the kind, for he would not have anything else to do for a time, than to answer these applications. The first thing required of him would be to put the 26th section into force. He would most likely, however, put up a notice stating, that it was not his intention to put that section into force. Then would follow an universal uproar all through Ireland to call it into action. In the meanwhile persons would not meet to make a choice of guardians. This would arise partly from a dislike of the bill, and partly from a liking of the patronage. The 7,000 applicants would very soon increase to 10,000, and the retreat of that 10,000, would no doubt soon have to be recorded. So that between the two causes operating, the consequence would be, sooner or later, that the floodgate would be opened, the 26th section would be put in force, and the appointment of stipendiary and paid agents would take place almost all over Ireland. It had been uniformly stated, by all the friends and advocates of this measure, that its success entirely depended on its becoming agreeable to the people of Ireland, by the aid of whom alone it could be carried into execution. The subject had undergone many discussions in both Houses of Parliament: many able speeches, though not very convincing ones, had been delivered, and many spirit-stirring and effective appeals to the passions had been made in its favour; much had been written for it; and, above all, the authority of Parliament in many divisions had been interposed in support of it. There was a great difference between England and Ireland in this respect; namely, that in England, the effect of a large majority on a division in either House of Parliament, and more especially in the representative House, was at once to put down a very strong popular feeling, and to give currency to the opinion of those who composed that majority. That was the case in England; but it was not so in Ireland. The mute eloquence of numbers had no more weight in Ireland than the vocal eloquence of the tongue had had in swaying the feelings, or than the argumentative efforts of the supporters of the bill appeared to have had in persuading the reason and leading the judgment of that portion of the United Kingdom. He believed, from the latest information he had received, that there was a more strong, a more decided, and a more general opinion against that measure, and a greater repugnance to it now than years ago, before one speech, one debate, one argument, or one division had been made or taken upon it. He, therefore, looked upon it as hopeless of obtaining fit instruments for its proper and due working in that country; for the people of Ireland were much less likely to turn round and change their opinions upon the subject, seeing that those opinions were right. As to the workhouse system, to which he had on a former occasion adverted, it was still his opinion that that system would be as strongly opposed by the people in Ireland as ever it had been in this country. It had been said, that there was to be no out-door relief. But he believed nothing of the kind. He did not see how it was possible, as long as men were men, for the commissioner—above all, the guardians, whom he did not expect to see working, or the paid officers, whom he did expect to see covering and blackening the land—to resist the feelings of natural kindness, by the almost necessary compunction of which they would be impelled, if not compelled, to break through the principle of the bill, and give out-door relief. He had said somewhat of the state of Ireland, and of the character of that people, and had alluded to the evidence which they had of the extreme hatred which was borne by them to this measure. God knew, he had but little knowledge beyond that of hearsay of their character, and he confessed he ought to speak with still more distrust of his information and of his opinion with respect to their feelings in reference to this bill, than even of their character as a people; for never did he know a more puzzling, a more bewildering case than almost everything, in point of fact, relating to the circumstances and situation of this system. Upon all other subjects, one day assertions the most positive, the most specific, and made with the most undoubted and unhesitating confidence, were brought forward as to the state of Ireland; another day, and from the same quarter, to make it the more puzzling, statements diametrically the reverse, were put forth. One in whom he was led to confide, with all their Lordships, had said, that there never had been a state of tranquillity so complete—never prosperity so unbroken—never so little crime—never so few outrages—never such undisturbed peacefulness, as reigned over the kingdom of Ireland during the administration of his noble Friend, the present Chief Governor of that country. How were his praises—and how justly—sung forth by eloquent tongues out of doors, and by yet more eloquent tongues within the walls of both Houses of Parliament. Grateful to him it was, to hear those praises; and he felt still higher gratification in joining his voice in chorus with those on all sides of their Lordships' House. But what was his astonishment to receive such a letter as that which he now held in his hand, coming from one of the most strenuous supporters of the Government! What a different story did it tell! It mentioned, that while upon all other subjects, there existed many different opinions; upon the subject of the poor-law, there was only one opinion. Upon that question, there existed no doubt; no discrepancy, no difference of opinion whatsoever. The writer declared, that he was quite disheartened and disgusted with the present state of the country, and was astonished at the change since he last visited it two years ago. Men, formerly peaceable, had become organized and dangerous assassins against whose outrages the law was perfectly powerless. It was wonderful (the writer observed), that the majority of such and such houses should be so ignorant of the real state of Ireland, and should indulge in the idle dream of pacifying that country by a poor-law bill. Why, if they were to add a municipal bill to that, and to a municipal bill, a bill for the total abolition of tithes, it would not have the smallest effect upon this poverty-stricken country. The writer proceeded to say,—

> "One can scarcely be aware of the dreadful state of this country. No man's life is worth an hour's purchase. The reign of terror is established, which every man feels and acknowledges. I recently saw so and so, who told me of —— being attacked in the middle of the day, two miles from the capital of this county, and on the mail-coach road, and of being so cruelly and barbarously beaten, that his life is despaired of."

He was aware, that it might be said, that nothing was more absurd than that of arguing from a letter; but he had received other letters from other parties. What puzzled him was, that those letters so materially differed from the returns laid before their Lordships. He was aware, that private letters were the more unlikely to be correct, still they showed what was the general impression in Ireland. He should not, however, have taken any notice of these statements, if totally opposite accounts of the same things had not come from one and the same quarter. The hon. and learned Gentleman, who was the very first to cry up, and most justly so, the exertions of the Lord-lieutenant of Ireland, to promote the peace of that country, had recently given a very different description of the state of the people there. If he were to disbelieve the private letters he had received, and were to say, that Ireland was tranquil, and that all was well and peaceful there, he should be running down Mr. O'Connell, who was the great authority upon that subject. He did not think, that any man knew Ireland better than, or so well as, that hon. and learned Gentleman. Yet that hon. and learned Gentleman, contrary to his own testimony for the last three or four years—whose influence in Ireland was one of the most extraordinary circumstances in the state of that country—and whose sway there made him the very last man in all the world to say one word against the peaceful state of its inhabitants, unless the admission were extorted from him by the overwhelming presence of facts; even Mr. O'Connell had said, within the last ten days, that Ireland, never since he knew it, was in so dangerous a state as now. What, then, was he to believe? Was he to believe the statement made in their Lordships' House six months ago, or was he to believe the statement which had been made only six days ago? Was he to believe that, in Ireland, all was tranquil; or that Ireland was never in a worse or more dangerous state?—that it was in such a state that you could not be sure, at any one moment, that there might not, in the next moment, be somebody who, by holding up a finger, might create a revolt of a hundred thousand men? That was a most awful state of things. One moral he drew from it was, that very little in general could be confided in of what was described as the real state of Ireland. This, however, he thought was clear, that there was but one opinion prevailing throughout that country on the subject of the poor-law, and that that opinion was one entirely adverse to it. No man could stand up in that House and say, that this bill was not most unpopular in Ireland. Was it, then, safe or prudent, when Ireland was in such a state, to apply only such a remedy as this? He had always been of opinion, that great changes were necessary in Ireland to make the union complete. He was always of opinion, that the abolition of the office of Lord-lieutenant was one of those changes. It was essential, in order to consolidate the two countries in all respects, and making no more difference between Yorkshire and Ireland than between Scotland and Yorkshire; Ireland having no more occasion for a viceroy than Yorkshire or Scotland. If he erred in this opinion, he erred, at least, in the company of great men. He erred in company of some who were at present living—he meant, among others, his excellent and hon. Friend, than whom there was no better historian, and none better qualified to give an opinion upon the subject—he meant Sir Henry Parnell. That sentiment had been avowed by his hon. Friend, not only in his writings, but in the motions which he had made in his place in Parliament. He erred with the venerated authorities of past times; with the authors of the Irish union; with Lord Grenville most distinctly; with Mr. Pitt, as he had good reason to know. He had erred with those of their followers, whom many of their Lordships had trusted more than, perhaps, he was disposed to confide in them. He erred with Lord Liverpool, who had matured a plan for abolishing the Lord-lieutenancy of Ireland, and thereby completing the union. He erred with other men who, in his mind, deserved to be well remembered, men who upon any Irish question, could never be kept secret or concealed for their merits, and who had at all times, from their earliest day, when they originally were the advocates of Irish emancipation with Mr. Grattan and his coadjutors, down to later times, when they still adhered to the doctrine of Catholic emancipation—having been originally the advocates of the greater emancipation of the Irish—their independence—he meant the breaking the shackles of Ireland by repealing Poyning's law—but being of late, also, the advocate with Mr. Pitt of Catholic emancipation—they had never ceased, in and out of office, to urge, whenever they deemed that it was possible to urge that great measure, and to urge it even before it was possible to carry it, that, at all events, while upholding the viceroyalty, the administration of Irish affairs, both of Catholics and Protestants, should be in all respects treated upon an equal footing. He erred with Lord Wellesley, to whom he had now alluded. He it was of whom he had now spoken; and the noble Lord would forgive him if he was mistaken in believing, that he erred also with another of the greatest and best of governors that ever held over Ireland with equal hand the balance of her fate—he meant the present Lord Anglesey. If, then, that should not be the panacea—he did not give it as such—but, if it were not a mitigation of the evils of Ireland, at all events it ought to be attended to as necessary to accomplish and finally consolidate the union. That was the belief he had ever held, and in holding which, he had the authority of all those names which he had mentioned to their Lordships. He believed, that this poor-law would not be a remedy for the existing evils, if there was anything like truth in these late representations of the perilous state of the country. A very great measure with respect to tithe was necessary; and he had no hesitation whatever in stating, that until they made a provision for the Roman Catholic clergy in Ireland, every other thing that they might do or attempt to do, were it in the Church, or were it in the State, would be entirely labour thrown away: it would lead to nothing but disappointment. If every priest in Ireland were to tell him that they would not take the money—if every agitator were to attack it—if every meeting were to vote against it, and every address were to pray the Crown not to sanction it, and if every petition were to deprecate it—if he should hear these authorities combined say, " We tell you we won't receive your money, we won't take the provision at all," he should go on in his course unmoved by all this array of petitions, deprecations, speeches, repudiations, and should enact the measure, and should provide a fund, and should then say, " Gentlemen, you do not want to take the money; it is not your fault that the enactment is made; you have resisted to the utmost; keep the profit of that resistance by retaining your consistency, namely, the confidence of your flocks, and have the glory of refusing to barter your independence—your spiritual independence—for Government gold; keep the glory; keep your influence; we grudge you neither; preserve your character; but here is the money—100*l.* for you, 150*l.* for another, 250*l.* for another, 350*l.* and 450*l.* for another." Now, he did not like to prophesy—it was a dangerous thing; but if ever he thought he could safely risk a prediction it was this—that the protestors, the dissenters, the deprecators, the speakers, the addressers, the petitioners against this measure would, before many months, take their portion and be thankful. Believing that the bill then before them would afford no substantial relief to the poor of Ireland—believing that it would effect much harm and no good, he begged leave in that, its last stage, to enter his serious, solemn, and conscientious protest against it.

Viscount *Melbourne* said, the pervading topic and ruling argument which ran through the whole of the noble and learned Lord's speech, was the extreme unpopularity of the bill in the country to which it was intended to be applied—the reluctance, nay, the utter detestation with which it was regarded by all classes of the community. He knew that many petitions had been presented against it; he knew, that many speeches had been made against it, both in that and the other House of Parliament; but he very much doubted whether there was such a strength of feeling against it—such a general repugnance and opposition to the bill, as would in any way justify the sweeping condemnation of the noble and learned Lord. He knew, that there was a pretty general feeling against the bill in the minds of the Irish gentry—a feeling which made him doubt whether the measure had been fairly represented to those humbler classes for whose benefit it was intended. If fairly represented to the poor, he did not believe, that they would entertain such sentiments with respect to it as had been stated by the noble and learned lord. He admitted, that there was a vast difference in the condition of Ireland as compared with that of England; he admitted, too, that the measure then before them was one that would probably be attended with much difficulty in its first application; but he saw neither in the difference between the two countries, nor in the difficulties by which the bill might at first be attended, anything that made him despair of its ultimately working to the great advantage and improvement of the destitute poor in Ireland. The opposition that had been raised to the bill did not convince him either that its principle was bad, or its machinery inefficient. It would be remembered that a similar outcry was raised in both Houses of Parliament against the English Poor-law Amendment Act; but now that that bill had been in operation for several years, he believed there were few in either House who would be bold enough to state that that measure had not operated most beneficially. It was admitted on all hands that it was necessary to do something for the relief of the poor in Ireland. By the present Bill it was proposed to give that relief in the only shape in which it was supposed it could be safely administered; and he thought their Lordships would hardly be doing their duty if at that late moment of the Session they were to cut the measure short, and to refuse to give to Ireland the advantages which might fairly be expected to flow from it. He could not persuade himself that a bill which promised so much good to the poor of Ireland could be so extremely unpopular throughout the whole of that country because it would impose some additional charges upon the landlords. He believed, on the contrary, that the bill would be well received, that it would produce very beneficial effects; that it would introduce habits of order; that it would raise the character of the people, and lead to the gradual discouragement of vagrancy and begging, without encroaching upon or vitiating or corrupting the feeling of charity which was so honourable to the country. It was upon these grounds that he advised their Lordships to pass the Bill. He was not insensible to the difficulties which might attend its execution. Mr. O'Connell said, that Ireland was too poor for a poor law. A noble Earl opposite said, that the Irish gentry would be totally ruined and destroyed by a poor law; and several noble Lords had said, very significantly, "Ireland will not raise a poor-rate." These were serious arguments; but he did not believe, that they were sufficient to outweigh the advantage which he was satisfied would result from the bill. Therefore he recommended it most earnestly to their Lordships' adoption.

Lord *Plunkett* said, that he did not pretend to promise that the bill would have all the good effects which were calculated on by those who supported it. Still, he was prepared to maintain, that it would do some good. He believed, that the bill would do great good, for it would aid in relieving the misery of the poor of Ireland. He conceived that at this moment Ireland was in a state of tranquillity, and he said this, notwithstanding the opinions to the contrary, which had been expressed by those who had assailed the Government, and yet who never had ventured to bring these charges against the government to a distinct motion.

The Earl of *Roden* said, that if the misery of Ireland could be relieved by the measure before the House, he should be the first to vote for its passing into a law; but he believed, that a contrary effect would be produced by it, and that the result of its operation would be to increase discontent without alleviating distress. It was unjust in its principles, and it was unjust in its details; therefore it could never prosper. It would only injure those who had always supported the poor, and stood by the ship in its hour of need, while it would give anything but satisfaction to the class whom it was intended to relieve; and one of the worst results which, perhaps, might be calculated on from it, would be the encouragement of a feeling for an independent domestic legislature among those who were always heretofore adverse to it. He never could give his assent to a measure which would inflict a certain injustice in order to effect a supposed good, a result which this bill would never accomplish. He had lifted up his voice against it when it had been introduced, he had voted against it, and he would still avail himself of his privilege as a Peer to oppose it to the last, feeling as he did, that it was calculated to inflict serious injury upon the country, and that it would never succeed in effecting those advantages which were anticipated by its supporters. He could not sit down without alluding to the observation of the noble and learned Lord opposite, to the effect that Ireland was at present in a state of tranquillity. Where had the noble and learned Lord resided, that he could have formed such an opinion? Where had his eyes and his ears been, that he could have entertained so erroneous an idea? Had he read the accounts of the large sum which was lately offered for the apprehension of those concerned in a dreadful murder lately in Ireland, without having the effect of obtaining the slightest clue to those who were concerned. The tranquillity of Ireland was a fact which he could not ascertain how any person who knew the country could credit. He should oppose the bill because he did not think it calculated to effect any good for Ireland, whilst it was certain to inflict much injury.

The Earl of *Glengall* had already expressed his opinions upon this measure, and he now rose to say, that he could not agree with what had been stated by the noble and learned Lord with respect to the tranquillity of Ireland. It appeared, that in 1836, 23,891 persons were committed for offences, and in the year 1837, 27,396 were committed; shewing a considerable increase, and certainly no proof of the increased order and morality of the country. In the class of homicides, between 1836 and 1837, there was a very considerable increase in the number of offences committed by firing at persons with intent to kill; and as to the number of crimes committed in attacking houses, there had been an increase of from 300 to 500. Then again, looking at the returns of the rewards and convictions, the sum of 13,000*l.* had been offered in two years for rewards, and of that sum only 500*l.* had been claimed. He believed, that 521 distinct rewards had been offered, 19 of which only had been claimed. With respect to the murder of Mr. Cooper between 5,000*l.* and 6,000*l.* had been offered for the apprehension of his murderers, and no clue had yet been obtained which would lead to their detection. So much for the tranquillity of Ireland.

Viscount *Gort* said, that this measure was a bill of pains and penalties against the landed interest of Ireland. He hoped the noble Marquess would bring the question to an issue, in order that he might have an opportunity of recording his opinion on this bill, one of the most obnoxious and unjust that ever was concocted.

Their Lordships divided on the question that the bill do pass—Content—present, 69; proxies, 24: 93. Not content—present, 23; proxies, 8: 31—Majority, 62.

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Petre, Lord	Fitzgerald, Lord
Carlisle, Lord	Clare, Earl

The following protests, "against the passing of the Poor Relief Ireland Bill," were entered the following day on the journals of the House of Lords:—

Dissentient,

"First—Because the introduction of a Poor law into Ireland being confessedly an experiment, and to be tried in a country presenting difficulties to the accomplishment of such a measure greater than any other, a bill introduced into Parliament for such an object, imperatively called for the utmost degree of caution and discretion in all its enactments.

"Secondly—Because the bill now passed goes to establish at once, in a country in which no poor-law has hitherto existed, an entire system of poor-law nearly as extensive as that in force in England, against the opinion of the great majority of the proprietary, as well as of all other classes in Ireland, as is plainly proved, not only by the numerous petitions which had been presented to Parliament from all quarters of that country against such an extensive measure, but also from various other sources of information.

"Thirdly—Because that in all those petitions there was an expression of willingness to co-operate in carrying into effect such a measure of poor-laws should be suited to the condition of Ireland, with reference to its pecuniary ability, and other circumstances peculiar to it; but, from inattention to the prayer of those petitions, and a neglect to avail of that favourable disposition which would have combined the efforts of all for the attainment of a useful and practicable measure, it is very much to be apprehended that apathy and discontent, if not more serious consequences, will follow the present measure, instead of that good will and zealous co-operation, which would have given efficacy to one adopted to the circumstances of the country.

"Fourthly—Because the state of Ireland for some years past, agitated and distressed as it has been, ought to have suggested to the mind of a statesman measures which might tend to conciliate, not to excite—to produce concord, not collision—where the whole frame of society has been shaken, where outrage and violence, in their most abhorrent form, have disgraced the land, their perpetrators setting the laws at defiance, it would have seemed a wiser policy to endeavour to restore tranquillity, and to establish security for life and property, gradually inducing, by conciliatory means, a respect for and obedience to the laws. Internal peace and good order being once fairly established, other improvements would follow, and even a poor-law might be carried into effect with the concurrence of all. But in the present state of Ireland to adopt a measure the success of which must be admitted to be, at least problematical, if not still further hazarding the tranquillity of the country, already too insecure, is alike unwise, impolitic, and dangerous.

(Signed) Carberry
Mount Cashell
Hawarden
Teynham
Glengall
July 9, 1838. Clonbrock

"Dissentient,

"First—Because the proposed Poor-law Bill can never effect the object laid down in the preamble, namely, the support of any great portion of the poor of Ireland. It can, therefore, afford but partial relief. And although Mr. Nicholls, in his report, points out with great truth the bad effects of mendicancy, no clause has been introduced to check so great a nuisance. Because it is intended by the present measure to afford relief to no more than 100,000 destitute persons, whereas the commissioners in their third report, p. 5, to Parliament, compute the number at 2,385,000. Thus scarcely one out of every twenty-three wretched beings will have a chance of obtaining assistance during that period of the year when labour cannot be had, and the price of potatoes their only food, is exorbitantly high.

"Secondly—Because the poor law commissioners are by this bill given unlimited powers over property of almost every description, which they may tax and mortgage to any extent.

If to the expenses of purchasing lands, buildings, and furnishing poor-houses, salaries to paid officers, chaplains, and surveyors, there be added the maintenance of the destitute poor, it must be evident to all acquainted with the distressed circumstances of the Irish landlords and tenantry, that they will be unable to bear the burden now for the first time imposed upon them.

"Thirdly—Because a measure more impolitic and fraught with mischief never was devised. It is enacted contrary to the wishes of all classes and denominations of the Irish people. It will meet with resistance. It will endanger the union with Great Britain. It will produce agitation and outrage, and it may ultimately lead to a rebellion.

(Signed) MOUNT CASHELL
TEYNHAM
GLENGALL
July 9, 1838. on the third clause.

HOUSE OF COMMONS,

Monday, July 9, 1838.

THE EARL OF DURHAM.] Sir *Edward Sugden* rose to ask some questions of the noble Lord in regard to what had taken place in Canada. The House were aware, that before the act relating to the suspension of the constitution in Canada passed, there were three public bodies, besides the Governor himself. There was the Executive Council, the Legislative Council, and the Legislative Assembly. By the act which had been passed this. Session, they had suspended the functions of the Legislative Council and the Legislative Assembly, but they did not interfere with the Executive Council. But that act authorised the Crown to appoint a Special Council, consisting of so many persons as the Crown might think proper to adopt; and, by a subsequent clause, no act was valid in which the initiative was not in the former, and that not less than five of the Council should be present. It appears by the last papers, that Sir John Colborne having received the act, on the 27th of March he proclaimed that act, and wrote a dispatch immediately to say, that he was enabled to appoint fifteen or twenty gentlemen to form a Special Council. By another despatch it also appeared, that he had appointed twenty-one, persons of whom eleven were French Canadians, two were Canadians, and the others were British. A session was held, in which business was transacted as it might be in that House, and he believed, that twenty-six laws or ordinances were passed by this Council. Early in the month of May, Sir John Colborne dissolved the Council, and in a despatch, addressed by him to Lord Glenelg, he stated the great satisfaction he had derived from the unanimity which had prevailed in the deliberations of the Council. What he wanted, then, to know was, whether Government had authorised, by instructions, Lord Durham, not simply to appoint an Executive Council, but also to remove the existing Special Council, and to appoint a new Special Council; and whether the noble Lord objected to lay on the table of the House the instructions on these subjects, or either of them, with other papers, if necessary. He also wanted to know whether the noble Lord was aware how many persons, and whom, had been appointed to the two Councils; whether they exceeded five in number, and were the same persons? During the discussions in that House there had been published a dispatch from Lord Glenelg to Lord Durham, by which it appeared, that instructions were to be given for a convention of estates to ascertain the opinions of the people of Lower Canada. He wished to know whether the opinions expressed in the despatch to Lord Durham had been abandoned or not?

Lord *John Russell* would endeavour to answer the questions which had been asked by the right hon. Gentleman. First, with respect to the appointment of the Executive Council, there had not been any special instructions upon that point. The Governor had the power to appoint for a time such persons, members of the Executive Council as he should think fit. Lord Durham had made use of that power by summoning as his Council certain persons whose names had appeared, and been published in the *Gazette* of Quebec. The number of the persons was five, and all connected in some way or other with office and the government of Lord Durham. With respect to the appointment of the Special Council, Lord Durham had authority given him to appoint a number of persons, not less than five, by his own act, to form part of that Special Council. The papers which were about to be given to the other House of Parliament he should have no objection to produce. The right hon. Gentleman made a correct inference when he said, that as Lord Durham had thought it expedient to call persons to his Executive Council not connected with the parties in the province, he would probably follow the same principle in the selection of his Special Council. With respect to the further question of the right hon. Gentleman, whether the instructions that had been laid on the table were abandoned, his answer was, that these instructions remained in the same situation, and there had been no variation or abandonment of them. He was persuaded, that Lord Durham had exercised the powers confided to him to the best of his discretion, as far as he had gone. And he must also say, that, from the accounts that had been received from the provinces, it appeared, that his proceeding had met with concurrence and approbation, as expressed by addresses from various parts of the province.

Subject dropped.

CAPTAIN MITCHELL'S PENINSULAR SURVEY.] Mr. *Leader* had to call the attention of the House to a paper which had been laid on the table relative to the expenses of Captain Mitchell's mission to the Peninsula. All those who had read the excellent work of Colonel Napier were aware, that for the purposes of his work he wished to see the maps and plans of Captain Mitchell. He had been referred to Sir George Murray, who refused to let him see them, and never since had he been able to obtain access to them. These maps and plans had been paid for by the public money; they should have been deposited in a public office, where the public might see them. But now he understood, that these maps were about to be published as a private speculation. He wished to know if this were correct?

Viscount *Howick* had a very simple answer to give to the hon. Member. All the information he possessed was contained in the return which was before the House. The transaction had occurred long before he was in office.

Mr. *Hume* had moved for a return, in order to ascertain whether the maps and plans were public property or not, as he considered it a matter of great importance. It appeared that nearly 5,000*l.* had been paid out of the public purse for preparing these plans. He did not grudge the application of the money, but the public ought to know what value they had received for the money, and he thought it was the special business of the Government and of the Secretary at War, were public property got out of the proper channel, to ascertain what had become of it. He thought there was neglect somewhere.

Viscount *Howick* said, that this subject was one upon which the War-office had no authority whatever, and it was therefore, totally out of his power to make inquiry on the subject. The original authority for the expense had been given by the Treasury of the day. The Secretary at War had not been consulted, and there had been no correspondence with the Secretary at War. A direct authority was given to the Commander-in-chief to incur the expense. The maps had never been in the custody of the War-office, and as Secretary at War he had no authority, and no responsibility on the subject.

Sir *H. Hardinge* believed, that these transactions were twenty-three years old, and he was, therefore, not aware of the details, but there was one statement which the noble Lord made which seemed to him objectionable. The noble Lord seemed to say, that the Secretary at War could not be expected to give information upon military expenditure which had not passed through his own office. Why, almost everything that was expended passed through other channels, but the Secretary at War was always considered as one of the organs of the administration in that House, and when a question was put affecting his department he was always expected to give some explanation. It was, he thought, the province of the Secretary at War to afford explanation when the conduct of a general officer was brought before the House. These expenses had been incurred under the authority of the Treasury, and if the noble Lord had applied to Sir George Murray for the necessary explanation he would have experienced no delay. But the noble Lord refused any explanation, because the matter had not passed through his office. Under these circumstances he objected to the mode of answer given by the noble Lord, and he thought, that the noble Lord ought to afford the information required, and to state, whether he approved of the plans, whether he considered them public property, and whether they ought to be transferred into the hands of a private publisher, or published at the public expense? He thought it was competent to the noble Lord to give answers on these points.

Viscount *Howick* said, that the right

hon. Baronet had not quite correctly alluded to what had previously fallen from him. He did not refuse to give information, but he said, that he had already given all the information he possessed or could procure. He had laid Sir George Murray's own statement on the table. That was the only information he could obtain, and he would tell the right hon. Baronet why he could do no more. He did not wish to express an opinion upon the acts of his predecessors, but if the right hon. Baronet called upon him, as he had, for an opinion on the subject, the only opinion he could give, and he gave it very reluctantly, upon a transaction in which so distinguished an officer was concerned—his most distinct and decided opinion was that the transaction had been highly irregular. Those plans being made at the public expense ought to have been placed in some public office. Whether that office should be the Ordnance, or the Royal College at Sandhurst, or the Quartermaster-general's office, he was not prepared to give an opinion; but that in some public office plans made at the public expense ought, from the original time of their formation, to have been deposited, was undoubtedly his distinct opinion.

Sir *H. Hardinge* would only observe, that the plans had never been finished, and it would, therefore, be useless to have deposited them in a public department.

Viscount *Howick*: And the officer who had to finish the maps was employed in New South Wales. He thought, that these maps and plans ought to have been deposited, not in the custody of an individual officer, but in some public department; and the right hon. Baronet knew as well as he did that there were various departments in which they might have been deposited, which were independent of the War-office, and subject to no control from the War-office. He believed, that the best that could be done was now doing, and that the arrangement with respect to publication was the best that could be made; but the original transaction namely, incurring these expenses without the knowledge of the Secretary at War, was, in his opinion, a most irregular and improper course.

Sir *H. Hardinge* would not prolong the discussion, but remind the House that Sir George Murray had incurred a great loss of time and trouble in placing the troops in those plans, and that they were not yet completed. Did the noble Lord mean to say, that these plans were not perfectly at the disposal of the public, or that Sir George Murray would not give them up if required? The only reason why they had not been given up was, that Sir George Murray, being deprived of Captain Mitchell's assistance, could not complete the plans, nor could he put the troops in till they were completed. They could not prevent a public officer like Captain Mitchell from going abroad, although the public service might suffer.

Subject dropped.

SUPPLY — CONSULAR CHAPLAINS.] The House resolved into Committee of Supply.

On the vote of 107,993*l.* for the expense of the Consular Department,

Mr. *Hume* wished to call the attention of the Committee to two items in this grant—namely, one containing the salaries paid to the chaplains at our different foreign factories, and another containing the expenditure incurred for building chapels abroad. He contended, that where the congregations were sufficiently numerous, they should pay the salaries of their own chaplains: for the rule now in force, that where the congregation paid one half of the salary, the Government would pay the other half, was most unfair, as in many of the foreign factories more than half the residents were Scotchmen and Presbyterians, and the rest were generally Roman Catholics from Ireland, whilst the chaplain belonged, almost as a matter of course, to the Church of England. He thought, that from this item 5,000*l.* should be deducted on account of the salaries of chaplains, and 3,500*l.* on account of the building of two chapels.

Viscount *Palmerston* had great pleasure in informing the hon. Member for Kilkenny, that the grant for defraying the salaries of chaplains was founded on more liberal principles, than he appeared to imagine; for it permitted contributions to be made by Government, to the chaplains of congregations belonging to the Church of Scotland as well as to the chaplains belonging to congregations of the Church of England. The condition on which, that grant was made was, that the congregation should themselves pay one half of the chaplain's salary, and, that the Government, on being furnished with the chaplain's receipt for that sum, should immediately pay him the other half. Thus no demand could be made on the public purse, unless the same amount was paid by the congregation themselves.

Sir *R. Peel* wished to know whether the prohibition was universal, that our consuls should not engage in commercial dealings?

Viscount *Palmerston* reminded the right hon. Baronet, that before the year 1826 our consuls could levy, not only fees on all notarial acts, as they did at present, but also fees on the tonnage of the different British ships which came to the port, at which they were stationed. This produced a great inequality in the amount of the emoluments received by our consuls, especially on the south American stations, and also led to various descriptions of abuses. His right hon. Friend, Mr. Canning, had discontinued that system, and had given our consuls fixed salaries in lieu of fees. The notarial fees, however, still continued; they were small in amount, and did not vary much from year to year. With respect to the prohibition, preventing our consuls from engaging in trade, he had only to reply, that it was not universal. The prohibition was given or not, according to the nature of the appointment. Wherever the consul was more of a political, than of a commercial agent, and had diplomatic functions to perform—as in most of the states of South America— there he was prohibited from engaging in trade? but in other places, as in Europe, where we had distinct diplomatic agents, and where the consuls had only commercial functions to execute, there he had no objection to let the consuls engage in commercial pursuits; for, by so doing, it enabled the country, to obtain consuls on smaller salaries, than it would otherwise be able to obtain them.

Grant agreed to.

SUPPLY — CORONATION MEDALS.] A vote of 3,703*l.* to defray the expense of several branches of the establishment of the Mint, was proposed.

In answer to a question from Mr. Clay,

Mr. *Labouchere* greatly regretted to state, that according to the general opinion of English artists, the execution of the medal for her Majesty's coronation did not answer the expectations entertained from the well-merited reputation of Signor Pistrucci. To show, however, how capable that artist was of elegant design and able execution, he (Mr. Labouchere) need only refer to the coronation medal of George 4th. And though he fully admitted, that the late coronation medal was not executed in the manner that might have been expected from Signor Pistrucci, yet he believed, that the imperfection was entirely owing to an unfortunate circumstance, by which he had been almost totally deprived of sight for two weeks previous to the completion of the work. Signor Pistrucci was as sensible as anybody of the imperfection of the medal, and wrote to him (Mr. Labouchere) to state his regret and explain the cause.

Mr. *Hume* thought it a great pity that these coronation medals could not be put into the pot and remelted. He was sorry for the misfortune of Signor Pistrucci, but he thought that if ever there was a case in which the credit of the Master of the Mint was involved, that something worthy of the British Mint should be put forth it was that of the medal struck for the late coronation, and he thought that corresponding efforts ought to have been made. Why, some of the medals that were selling in the streets for 1*d.* a-piece were as well executed as the reverse of the gold medals in question, and for the honour of her Majesty's Mint, they ought to be called in and re-melted. He must say, that he could not excuse his right hon. Friend, the Master of the Mint; he, or his deputy, ought to have seen that something better than this was executed. Before he sat down, he wished to know, as they had silver fourpenny pieces in circulation, which had been found very convenient, why they should not have threepenny and twopenny pieces of silver in general circulation also. These pieces were authorized by law and ancient custom; they would prove exceedingly convenient, and he did think that the public ought to have them.

Mr. *Labouchere* would be very sorry to see omitted the coinage of these small silver coins, which was usual at the beginning of each reign. The practice had never been omitted, he believed, since the Conquest. The series of silver pennies was the most perfect of any class of our coins; but, he could not think that any public benefit could arise from the circulation of silver coins lower than 4*d.* One word more with respect to the coronation medal. He thought it ought to be borne in mind, that on occasion of the coronation of George 4th., the whole expense of the execution of the medal was paid back to the public from the proceeds of the sale of that medal, which was executed by Signor Pistrucci; he mentioned this to show, that if the late coronation medal had not answered the expectations of artists and the public, its imperfection was not to be attributed to any want of zeal or ability, but entirely to the unfortunate accident which he had mentioned.

Mr. *Warburton* said, the right hon. Gentleman had been understood to hold out hopes at the beginning of the Session, of the re-appointment of the committee, which sat last Session on the Mint, and especially the engraving department, and he thought it very possible, that if that re-appointment had taken place, this imperfect production would not have appeared. He believed, that if the matter had been fully gone into, it would have been found, that the nation paid most extravagantly for the works designed and executed in the engraving department. With respect to a coinage of silver threepennies, he thought such a coin would be xtremely convenient.

Mr. *Labouchere* said, he had been most anxious for the re-appointment of the committee of last year on this subject, but, at the same time, he had felt it would be useless to re-appoint unless they could be expected to come to a report in the present Session. This, however, he did not feel justified in expecting, because, the state of health of one of the principal officers of the department, whose evidence and suggestions as to improvements in the present system, it would have been most important for the Committee to hear, was such as not to permithis attendance.

Mr. *Warburton* had no wish to derogate from the real merits of the managers of the Mint. He thought, the greatest possible improvement had taken place in the coinage of the country, as would be seen by comparison of the present with the coins some years back.

Vote agreed to.

Supply—Dissenting Clergymen.] The sum of 4,500*l.* having been proposed, as an allowance to Protestant Dissenting Ministers in England, poor French refugees, clergy and laity, &c.

An hon. Gentleman objected to the vote, as repugnant to the voluntary principle which the Dissenters professed, and thought that it was money forced on their acceptance.

The *Chancellor of the Exchequer* was decidedly opposed to the voluntary principle, and therefore, could not entertain any objection to the vote on that ground.

Mr. *Hindley* proposed, as an amendment, hat the item of 1,095*l.* (the portion of the vote allowed to the Dissenters) be left out.

Mr. Hume supported the amendment.

Mr. *Baines* observed, that it had been originally the gift of King George 1st. to the Dissenters, to whom he was indebted for important services. It had been continued as a gift by George 2nd, but his successor had it transferred to the shoulders of the public. He was of opinion, that when George 3rd made this transfer, the Dissenters, in assertion of the voluntary principle, should have declared against taking this allowance from the state, although there would be nothing objectionable in their taking it as a gift from the sovereign personally. If the matter should come to a vote, he (Mr. Baines) would vote for the discontinuance of the grant.

The *Chancellor of the Exchequer* had been applied to to withdraw this vote, but he could not do so; first, because he could not affirm the voluntary principle, to which he continued opposed; and, secondly, because, he could not withdraw that which had been conceded originally as a grant by King George 1st.

Mr. *O'Connell* would decidedly vote against the continuance of this grant; and, in doing so, he would vindicate his uniform advocacy of the voluntary principle. He was favourable, however, to that portion of the grant which had reference to the French refugees, who were the descendants of the victims of an act of the basest treachery recorded in the pages of history—he alluded to the Revocation of the edict of Nantes.

Mr. *Gibson* said, he should vote for the grant, were it only for the purpose of marking his opinion of the insufficiency of any voluntary system. The poorer ministers of religion could never be otherwise supported than out of the public purse.

Mr. *Kemble* observed, that if the dissenting ministers felt, that this species of remuneration was inconsistent with their religious principles, nothing would be easier for them than to refuse it.

Viscount *Sandon* should vote for continuing the grant, so long as it was received.

Mr. *Wallace* on the part of the Dissenters of Scotland, and on the part especially of those whom he had the honour to represent, begged to say, that they had no wish to receive any portion of the public money; he should, therefore, vote for the proposed reduction.

Committee divided on the amendment: Ayes 16; Noes 84: Majority 68.

List of the AYES.

Aglionby, H. A.
Baines, E.
Bridgeman, H.
Brotherton, J.
Hobhouse, T. B.
Lushington, Dr.
O‘Connell, D.
Salway, Col.
Tancred, H. W.
Thornely, T.
Turner, W.
Vigors, N. A.
Wallace, R.
Warburton, H.
White, A.
Yates, J. A.

TELLERS.

Hume, J.
Handley, H.

List of the NOES.

Abercromby, G.
Ainsworth, P.
Alsager, Captain
Attwood, W.
Bainbridge, E. T.
Barnard, E. G.
Barry, G. S.
Bateson, Sir R.
Blair, J.
Blake, W. J.
Blandford, Marquess
Blunt, Sir C.
Briscoe, J. I.
Bruges, W. H.
Byng, G.
Campbell, Sir J.
Carnac, Sir J. R.
Chapman, A.
Clay, W.
Clive, hon. R.
Clive, E. B.
Courtenay, P.
Crawford, W.
Curry, W.
Dalmeny, Lord
Fitzroy, Lord
Gibson, T.
Greene, T.
Greenaway, C.
Grey, Sir G.
Grimsditch, T.
Hawes, B.
Hawkes, T.
Hayter, W. G.
Hector, C. J.
Heneage, G. W.
Hepburn, Sir T.
Hilsborough, Earl of
Hinde, J. H.
Hobhouse, Sir J.
Hodges, T. L.
Hope, hon. C.
Horsman, E.
Howard, P. H.
Hughes, W. B.
Hurt, F.
Hutton, R.
Inglis, Sir R. H.
Kemble, H.
Langdale, hon. C.
Law, hon. C. E.
Lefevre, C. S.
Lefroy, T.
Litton, E.
Lushington, Dr.
Marshall, W.
Martin, T. B.
Maule, hon. F.
O'Brien, W. S.
Ord, W.
Pakington, J. S.
Parker, J.
Patten, J. W.
Pendarves, E. W.
Perceval, Col.
Plumptre, J. P.
Power, J.
Pusey, P.
Rae, Sir W.
Rice, E. R.
Rice, rt. hon. T. S.
Rickford, W.
Rolfe, Sir R. M.
Sandon, Lord
Sibthorp, Colonel
Sinclair, Sir G.
Slaney, R. A.
Strutt, E.
Surrey, Earl of
Teignmouth, Lord
Vivian, J. E.
Walker, W.
Williams, Wm.
Williams, W. A.
Wood, G. W.

TELLERS.

Steuart, R.
Trowbridge, Sir T.

SUPPLY—SECRET SERVICE MONEY.] On the question that a sum of 35,900*l.* be granted for the purpose of defraying the expenses of Secret Service,

Mr. *Williams* objected to so large a sum being expended without proper responsibility. He would propose, that it be reduced to 25,900*l.*

The *Chancellor of the Exchequer* denied, that there was a want of responsibility as regarded secret service money. It was mainly used for the purposes of the Foreign-office, and no portion of it was disbursed otherwise than by the authority of the Secretary of State, or the Under-Secretary, who declared upon oath the amount so expended, and that the same was for public uses. All sums privately expended in other offices were similarly sworn to. He thought it would be hard if the circumstance of England being a free country should deprive us of those advantages in the way of secret information which our rivals and opponents were always enabled to enjoy. He further observed, that the amount had been gradually reduced, and was this year lower than ever.

Mr. *Hume* thought the example of other Governments had been too much followed in this matter, and the time had now arrived when secret service money should be dispensed with altogether. It was only a cloak for improper proceedings. He should not vote for its diminution, but against any grant whatever.

The Committee divided on the original motion: Ayes 111; Noes 13: Majority 98.

List of the AYES.

Abercromby, G.
Acland, T. D.
Ainsworth, P.
Alsager, Capt.
Baring, hon. W.
Barnard, E. G.
Barry, G. S.
Bateson, Sir R.
Blair, J.
Blake, W. J.
Blunt, Sir C.
Briscoe, J. I.
Brocklehurst, J.
Bruges, W. H. L.
Byng, G.
Campbell, Sir J.
Carnac, Sir J. R.
Chapman, A.
Childers, J. W.
Clay, W.
Clive, E. B.
Clive, hon. R. H.
Cole, Lord
Courtenay, P.
Crawford, W.
Darby, G.
Evans, G.
Fitzroy, Lord C.
Fleetwood, Sir P.
Gaskell, J. M.
Gladstone, W. E.
Grant, F. W.
Greene, T.
Greenaway, C.
Grimsditch, T.
Grimston, Viscount
Grimston, hon. H.
Hawes, B.
Hawkes, T.
Hawkins, J. H.
Hayter, W. G.
Heneage, G. W.
Hepburn, Sir T.
Hinde, J. H.
Hobhouse, Sir J.
Hobhouse, T. B.

Hodges, T. L.
Hope, hon. C.
Hope, G. W.
Horsman, E.
Howard, P. H.
Hughes, W. B.
Hurt, F.
Hutton, R.
Inglis, Sir R. H.
James, Sir W. C.
Kemble, H.
Langdale, hon. C.
Law, hon. C. E.
Lefevre, C. S.
Lefroy. right hon. T.
Litton, E.
Lockhart, A. M.
Lushington, Dr.
Lushington, C.
Lygon, hon. General
Macnamara, M.
Marshall, W. C.
Martin, T. B.
Maule, hon. F.
O'Brien, W. S.
O'Ferrall, R. M.
Ord, W.
Pakington, J. S.
Parker, J.
Patten, J. W.
Pendarves, E. W.
Perceval, Colonel
Phillpotts, J.
Plumptre, J. P.
Pusey, P.
Rae, Sir W.
Rice, E. R.
Rice, hon. T. S.
Rickford, W.
Roche, W.
Rolfe, Sir R. M.
Rose, Sir G.
Salwey, Col.
Sandon, Visct.
Scarlett, hon. J. Y.
Sheppard, T.
Sibthorp, Col.
Sinclair, Sir G.
Slaney, R. A.
Stewart, J.
Strutt, E.
Sugden, rt. hn. Sir E.
Surrey, Earl of
Tancred, H. W.
Thompson, Alderman
Thornely, T.
Troubridge, E. T.
Vivian, J. E.
Ward, H. G.
White, A.
Wilbraham, G.
Williams, W. A.
Wood, C.
Wood, G. W.
Wyse, T.
Yates, J. A.

TELLERS.
Grey, Sir G.
Steuart, R.

List of the NOES.

Aglionby, H. A.
Blandford, Marq. of
Bridgman, H.
Duke, Sir J.
Hector, C. J.
Hindley, C.
Jervis, S.
O'Connell, D.
Turner, W.
Villiers, C. P.
Walker, R.
Wallace, R.
Warburton, H.

TELLERS.
Hume, J.
Williams, W.

Vote agreed to.

SUPPLY—EDUCATION.] On the vote being proposed, of 20,000*l.* for the Erection of School-houses, in aid of private subscriptions for that purpose, for the education of the children of the poorer classes in England,

Mr. *Slaney* objected strongly to the present mode of distributing this vote; some efficient system of inspection was indispensable.

The *Chancellor of the Exchequer* hoped, that next Session, some legislative measure for establishing a system of inspection over these schools might be carried.

Mr. Sergeant *Jackson* thought, that perhaps it would be felt desirable to appoint a minister of public instruction.

Mr. *Goulburn* protested against the encouragement, on the part of the State, of mere secular education, without any religious instruction.

Mr. *Wyse* thought the locality ought to provide for the religious instruction of the resident poor, but that the Government ought to provide the means of intellectual education. The locality ought to settle the point as to the mode of communicating religious instruction, but the Government should see, that it was communicated, and, at the same time, take care that a system of literary education was established.

Mr. *Acland* wished to know what was to be done in a small parish, where there were members of three different religious communities? Would the hon. Gentleman have three schools established? He thought, that the management of railroads and public works might be very well carried on by boards of direction; but, he thought it was not consistent with our English habits, to establish boards of education, and he hoped it never would be. He did not think the Government, being a human institution, ought to have the control of the religious instruction of the people. The institutions of this country were happily bound up with the Established Church, and that constitution of things ought to be respected. He must say, that there was a very efficient inspection of the national schools carried on by the clergy in each parish, and the benefits of those schools were not confined to the children of members of the Established Church, for a very large portion of the children of the Dissenters attended them.

Mr. *Villiers* said, that the whole of the argument of the hon. Member who had just sat down, was intended to prove, that there was sufficient inspection, because the schools were under the superintendence of the parochial clergy. But what was the fact? Was not the complaint general, that the country, in respect to religious instruction, was in a state of destitution, thus clearly showing, that an improved system of inspection was wanted? The hon. Gentleman had alluded to the establishment of a board as hostile to British habits; but surely that was no argument, for he believed, that England was far behind Prussia, and other continental countries, in point of education—a fact which was nowise creditable to England. He hoped the House would consider, that there had been nothing advanced against some improved system of superintendence; and when they voted the public money, it was surely their duty to see how that money was applied. That money at present was given to two societies, and it appeared to him, that the only rule for its distribution at present was, to give it almost exclusively to the most wealthy sect. Now, it was clear that it ought to be applied fairly to the general purposes of education, and he sincerely trusted, that a better system of inspection would be established so as to insure a fairer distribution of the grant.

Sir *R. Inglis* could not consent to the doctrine, that because Parliament of late had interfered with the property of the Church, they had a right to interfere also with the religion and mode of instruction adopted and sanctioned by the Church. For himself, he should be sorry ever to see Government interfere in the instruction of the people to such an extent as some hon. Members seemed willing to sanction, as he believed, that such interference could only tend to retard rather than to promote the advance of instruction amongst the people. He objected to the mode in which the grant was disposed of at present, as he considered, that the education of the people ought to be in the hands of the national Church. He would never scruple to say so, because such was his conscientious opinion, and he believed, that there was in the country a growing feeling, that instruction ought to be under the superintendence of the Church.

Mr. *O'Connell* said, that all they wanted was fair play, while the hon. Member for West Somerset seemed to wish for a dictatorship in favour of the Established Church. As the grant was the contribution of all sects in religion, they wanted that grant to be fairly divided amongst Protestants, Catholics, and Dissenters. They were all met there on equal terms, and all that those on his side of the House asked for was, equality and justice, and that the Government should superintend the distribution of the money, leaving the instruction to the care of the pastors.

Colonel *Sibthorp* said, that he should afterwards, he trusted, have an opportunity of exposing the system of education commissions, when he brought the general subject of commissions under the consideration of the House. When, however, he saw, that the Irish Education Commission had cost upwards of 114,000*l*., and when he reflected on what the Education Commission for Scotland, which had not yet concluded its labours, had already cost the nation, and when he considered what had been the results of the investigation of those two bodies, he could not help saying that the expense attending such inquiries was a gross waste of the public money.

Vote agreed to.

House resumed. Committee to sit again.

QUALIFICATION OF MEMBERS BILL.] Mr. Warburton moved the third reading of this bill,

Colonel Sibthorp opposed it, and moved as an amendment, that it be read a third time this day six months.

The House divided on the original motion:—Ayes 63; Noes 14:—Majority 49.

List of the AYES.

Alsager, Captain
Archbold, R.
Ashley, Lord
Baines, E.
Barrington, Viscount
Beamish, F. B.
Bowes, J.
Brotherton, J.
Bruges, W. H. L.
Burroughes, H.
Divett, E.
Douglas, Sir C. E.
Eaton, R. J.
Filmer, Sir E.
Finch, F.
Gladstone, W. E.
Gordon, R.
Grey, Sir G.
Grimsditch, T.
Hawes, B.
Hawkes, T.
Hindley, C.
Hobhouse, T. B.
Hodges, T. L.
Howard, P. H.
Hughes, W. B.
Hutt, W.
Hutton, R.
Jackson, Sergeant
Langdale, hon. C.
Lefevre, C. S.
Litton, E.
Lockhart, A. M.
Mackenzie, T.
Macleod, R.
Maher, J.
Maule, hon. F.
Morpeth, Viscount
Murray, J. A.
O' Brien, W. S.
O'Connell, J.
O'Connell, M. J.
Pakington, J. S.
Parker, J.
Pease, J.
Perceval, hon. G.
Pringle, A.
Rae, rt. hon. S.
Rice rt. hon. T. S.
Roche, Sir D.
Rolfe, Sir R. M.
Rundle, J.
Russell, Lord J.
Salwey, Colonel
Sandon, Lord Visc.
Sheil, R. L.
Stanley, E. J.
Steuart, R.
Style, Sir C.
Thornely, T.
Vigors, N. A.
Wallace, R.
Wood, G. W.

TELLERS.
Aglionby, H. A.
Warburton, H.

List of the NOES.

Bagge, W.
Blackstone, W. S.
Blandford, Marq. of
Buller, Sir J. Y.
Cole, Lord Visc.
Darby, G.
Hinde, J. H.
Hodgson, R.

Inglis, Sir R. H.
Perceval, Col.
Plumptre, J. P.
Rose, Sir G.
Rushout, G.
Waddington, H.

TELLERS.
Dungannon, Lord
Sibthorp, Col.

On the main question being again put, Colonel Sibthorp was determined to oppose it as long as he possibly could, and he therefore moved an adjournment.

The House divided on the adjournment;—Ayes 14; Noes 51;—Majority 37.

The question was however postponed.

HOUSE OF LORDS,

Tuesday, July 10, 1838.

MINUTES.] Bill. Read a second time:—Dean Forests Encroachments; and Dean Forests Mines.

Petitions presented. By Lord GLENGALL, two, from Westmeath, against the Poor Relief (Ireland) Bill.—By the Earl of RIPON, from Tamar, to take into consideration the state of the Established Church in Upper Canada.—By Lord SEGRAVE, from Medicsl Practitioners, for a revision of the laws for regulating the Medical Profession.—By the Duke of CLEVELAND, from a Public Meeting in the county of Durham, for Negro Emancipation.

BLOCKADE OF THE SPANISH COAST.] Lord *Brougham* rose, pursuant to notice, to call the attention of their Lordships to certain Admiralty instructions or orders which he understood had been issued, if not authorising the capture of Sardinian vessels, at all events framed for the purpose of preventing the access of such vessels to the coast of Spain. He had, on a former occasion, asked whether there would be any objection, on the part of her Majesty's Government, to produce those instructions, and he was then told, that it would be more regular for him to make this motion. He was anxious, in the first instance, to obtain the papers, if such were in existence, and to defer any statement on the subject until they were produced. But, that having been refused, he was obliged to take the course which he now adopted. The subject, their Lordships must be aware, was one of extreme importance, as it was intimately connected with the law of nations. In support of the doctrine, that all fictitious or paper blockades were contrary to the law of nations, he had the concurrent authority of all the jurists and all the judges who had ever written or delivered an opinion on the subject. That had been held to be the true and sound doctrine by all governments, with the exception of the Government of France, under Buonaparte, when intoxicated with power, he had fulminated his Berlin and Milan decrees, which, however, had led to a confirmation of the general doctrine for their illegality had long since been avowed and stigmatised. He should deplore extremely if this country ever, in the slightest degree, countenanced by her conduct such a system; for nothing could be more disparaging to her fame, nothing could more tarnish her national character, nothing could be more calculated to compromise her real interests, or what, above all things, he should lament, nothing could be imagined more likely to shake the peace of Europe and of the world. As he was willing to avoid any lengthened statement or argument on the subject, he would state the three points on which he wished to receive information, which might readily be met by three short answers. If those answers were given in the way he wished, it would preclude the necessity of his uttering another word on the subject. If his first question were answered in the negative, that question being, "Had any such instructions or orders as he alluded to been issued?"—if the answer "No," was given to that question, then away went one third of the points on which he desired information. If, then, his second question were answered in the affirmative (supposing the first to be answered also in the affirmative, and it being admitted that such instructions or orders had gone forth), that second question being, "Have you made the regular and requisite notification of the issuing of these instructions to all neutral states and powers?"—if that were answered in the affirmative, then much of what he wished to learn would be obtained. But if both of these questions were answered in what he took to be the wrong way—if the first were answered in the affirmative, and the second in the negative, so that it should appear, that although such instructions were issued, yet that no warning had been given to neutral powers, then came his third question, "Can you produce the opinion of the adviser of the Crown on such matters, her Majesty's advocate, that this conduct, on the part of the Government, is not a gross outrage on, and a monstrous infraction of, the law of nations?" If that third question were answered in the affirmative, then he must decidedly say, that he was at issue with that high law authority. If he were wrong—if the doctrine were now otherwise than he had stated it to be—then had the law of nations undergone a total and radical change, a new code had been established, and that which was formerly acknowledged to be the law of nations was no longer so. He was now in the hands of the noble Lord at the head of the Admiralty, who would answer or not as seemed fit to him.

Viscount *Melbourne* declined answering the questions of the noble and learned Lord.

Lord *Brougham* continued. When a noble Lord declined to answer questions of such a nature as he had propounded, it must be clear to the meanest apprehension, it must be evident to any one possessing even the smallest particle of capacity, that the refusal was given because those questions, if answered at all, must be answered in what he called the wrong way, and not in the way in which they ought to be answered. This being perfectly evident to him, he should assume, 1st, that some such instructions as he had referred to had been issued; 2nd, that no warning had been given to foreign powers (for if such warning had been given, it was easy to produce it); and last, that no opinion of any law authority was to be cited for this total violation of, or total change and alteration in, the most fundamental principles of the law of nations. Now, in the argument he was about to raise, he would first assume, that we were at war, he would take it for granted that we stood in the posture of belligerent, that we were parties to a conflict, that we took part with one side, and were at war with the other, and, therefore, that we were justified in claiming and exercising all belligerent rights. He would first ask, then, whether the authority which we had exercised was or was not one of those rights? The case was a very short one, it lay within a very narrow compass. If there were one principle of the law of nations better established than another, it was this — namely, that no belligerent could blockade the port of another belligerent for the purpose of preventing the access, the free ingress and egress, of all neutral nations to such port, unless that belligerent had a force stationed on the coast amply sufficient to prevent the entrance of those neutral powers—a force not only perfectly efficient, but constantly sustained in point of time, so that, at no part of the circle, there should be any way to escape the blockade, and that it would be totally unsafe for any vessel to go in or out of the port so blockaded. That undoubtedly was the law. But they would, perhaps, be told, that our orders in council proceeded on a different principle—that they constituted merely a paper and fictitious blockade. The answer to that was, that the necessity of the case called for them, and that their principle was never justified by us. The French Government had placed this country in a state of blockade by their Berlin and Milan decrees, and the orders in council which followed, had always been held by Sir William Scott as purely retaliatory measures. On the subject of blockade he begged to cite the opinion of Sir William Scott, which was to be found in the sixth volume of Sir Christopher Robinson's *Admiralty Reports.* Sir W. Scott distinctly said, "It is illegal, and no blockade, unless the belligerent has the means of drawing an arch round the mouth of the port, and effectually securing it." Now, why should such a master of the law talk about "drawing an arch," and not a circle, round the port? That was explained afterwards; because, "if one point or iota of that arch failed, if the prevention were not perfect and complete, the whole blockade was useless, and crumbled to nothing." It was also necessary, to perfect a blockade, that there should be, not only an efficient force, but that there must be, in point of time, a stay and continuance of that force in the neighbourhood of the place blockaded. He would ask, had they, in this instance, any such arch marked out? There was nothing of the kind. The blockade extended from the Pyrenees to the gut of Gibraltar. Those instructions directed the stoppage of vessels laden with warlike stores on the coast of Valencia as well as of Catalonia. Had they a force afloat in those seas sufficient to maintain such a blockade? He apprehended not. If, therefore, they even were belligerents, the blockade, according to the doctrine laid down by Sir W. Scott, was illegal. In 1689, after the Revolution, when this country was in alliance with Holland, we entered into a treaty with that power, by which it was directed that vessels carrying stores to any of the ports of France, should be seized by British or Dutch cruisers, and made prize of. This was acted on for some time; but, on the 15th of March, 1693, two northern powers (Denmark and Sweden) entered into a counter treaty, protesting against the course adopted by Great Britain and Holland, and binding themselves to take efficient steps for their mutual protection. Vattel and other great authorities on the law of nations supported their view of the case, and what was the consequence? Why, the representations of those powers produced the desired effect. Great Britain and Holland yielded at once to the representations made to them. They withdrew their notice, and made reparation to the injured parties. Now, it was worthy of remark, that we were then at war with France—Holland was at war with France, and, of course, every right appertaining to a belligerent power then belonged to us. But even in that state and posture of affairs we admitted, that in resorting to such a measure we had done wrong. But how were we situated in this case? We were no belligerents, and therefore had not a shadow of ground for this proceeding. Was it ever before known or heard of, that because a state wished well to one of two hostile parties, was in alliance with one of them, but not at war with the other—was it ever before heard of, that in such a state of things they were authorized to issue an order to prevent a neutral power from entering the ports of the country where the contest was going on? Since the law of nations was first established amongst civilized men—amongst whom alone it was known—such a monstrous, such a preposterous proceeding, was never before heard of. The noble Earl (Minto) was not well pleased when, on a former occasion, a noble Lord introduced this subject. The noble Earl could not conceive where the noble Lord had procured his information on a matter which was of a purely confidential character. He wished the order had been of a private and confidential nature, as private and confidential as the Oxford and Cambridge libels which were mentioned last night. It ought to have been so confidential as never to have left the desk; such an abortion ought never to have seen the light. But it was something new to hear of a confidential order, addressed to the captain of a frigate, not to be opened until he arrived at a certain degree of longitude and latitude, but to be acted on immediately. Why, the moment the order was notified to the captain of a frigate, with 500 or 600 men on board, it became a matter of notoriety to every one of them—it became a matter of public notoriety, the instant an attempt was made to carry it into execution. But why, he wished to know, for he must assume the fact, were these confidential orders kept back from the neutral powers? Why were not the Sardinians, why were not the Dutch (for it was levelled at them), made acquainted with this order? Why was that knowledge withheld from them? They were, in consequence of their ignorance, induced to freight vessels with stores, for no human imagination could ever suppose that orders and instructions of such a description could emanate from any mortal being who had ever presided over the Admiralty or had occupied a seat at the board. So it was, however; individuals were induced to freight vessels with stores, they fared forth, they crossed the seas, only to reap disappointment when they approached their destination. He must express his satisfaction that no accident should have happened in consequence of those instructions during the last two years. But, notwithstanding, these instructions were an aggression upon neutral rights, which violated the law of nations, and put in jeopardy the peace both of this country and of Europe. These were the reasons, thus shortly stated, which would make him deeply lament that the question which he had ventured to ask should be unsatisfactorily answered. For these reasons he rejoiced that an opportunity was given them of arresting the Government in this bad course, when otherwise it might be too late to interfere, except for the sake of precedent. These were the reasons which made him apprehensive that mischief would still happen unless these instructions were revoked. He would suppose a case. He did not know what ramifications of treaties might exist between the Italian and German states. The parties who had entered into the quadruple alliance, to which he himself had been a party, had never dreamt of any thing in the slightest degree resembling any interference with neutral states; so far from that, one party to the treaty, the King of the French, bound himself to prevent any arms or ammunition being furnished to Don Carlos from the French territory, but not one word was said about stopping any neutral powers from giving their assistance to Don Carlos. He would just put this case; it was a known truth, that certain Powers were not parties to the quadripartite alliance. He never yet saw the case of a treaty on which other Powers looked with a jealous eye in which that treaty did not give rise to other treaties. Nations, like individuals, acted in the spirit of Mr. Burke's aphorism—"When bad men combine, good men must associate." The Powers who did not unite with us in forming the quadripartite alliance naturally looked upon that as a combination for bad purposes, and said, "We must associate for our legitimate purposes;" from which reasons he argued, that it was eminently probable that some treaties had arisen out of the quadripartite alliance. He would suppose Sardinia to be a weak state; but no—he would not suppose Sardinia to be weak, for he remembered that when he had urged the noble Lord to put a stop to the slave trade, and had pointed to the manner in which Portugal connived at that iniquitous traffic, the noble Lord's answer was, "Oh, we must not interfere with Portugal; we could immediately put a stop to the slave trade if we chose, but Portugal is under our protection, and is a weak power; nothing could be so indelicate as such a proceeding; but if it had been France, or Prussia, or Austria, or Russia, it would have been a different thing." This was a line of policy closely approximating to the conduct of a sovereign of the house of Bourbon, in the southern part of the Peninsula, who was distinguished by all that firmness of character which seemed an hereditary qualification of that illustrious house, and who being one day out hunting was observed to change colour and run away as fast as he could from some small animal, a dog or something of the kind, which happened to come through a gap in the hedge. Some surprise being expressed at this unusual exhibition, his Majesty replied with great energy and emphasis, "Oh, if it had been a lion, you should have seen what a reception I would have given him." Just so, her Majesty's Government could not think of coercing a poor little thing like Portugal; but if it had been Russia, or France, or Austria, or Prussia, then indeed we should have seen what they would have done. Therefore he had no right to assume that Sardinia was a weak power. But he would suppose a case. He would suppose, that Sardinia had put herself under the protection of Austria. He would suppose, that a defensive alliance subsisted between Austria and Sardinia *in viridi observantiâ*. What if that were the case? What, if he knew it to be true that there was a defensive alliance between Austria and Sardinia, which bound Austria to make common cause with Sardinia in any case in which Sardinia was involved in war. It was possible that that treaty had been made since those instructions were issued, but their production would at once put a stop to any surmise about the date. He must say, that according to the law of nations Austria was perfectly justified in entering into a defensive alliance with Sardinia. An offensive alliance was another thing. An offensive alliance was an aggression in itself; it led to war, and was therefore abhorred by the law of nations. But defensive alliances were objects of peculiar favour with that law; they threw the shield of the strong over the weak, and were therefore highly favoured by the law of nations. A defensive alliance did not lead to the great national felony of war, and no one had a right to complain, because the aggressor only was injured. The fate of this motion rested with their Lordships, but he certainly thought that unless strong reasons were shown against the production of these instructions they ought to be laid before their Lordships. He should therefore move—

"That an humble address be presented to her Majesty, praying that she would be graciously pleased to direct that there be laid before this House copies of any orders issued by the Admiralty touching any warning or prohibition against an entrance into the Spanish ports by Sardinian or other vessels; and of any warning or notification addressed to neutral Powers accordingly."

Viscount *Melbourne* said, that in answer to the question of the noble and learned Lord, on the former occasion, when the noble and learned Lord stated, that he requested him to make this motion, he begged to observe, that what he meant to say was, that he could not produce the papers referring to this matter, unless they were called for by the House, but he denied, that he recommended the noble and learned Lord, to move for these papers, or gave him to understand, that they would be produced on such a motion being made. What he said, was with the view of leading the noble and learned Lord to the conclusion, that the more he considered the subject, that the more calm deliberation he gave to it, the more he would be convinced, that it would be better not to stir the subject; for, by doing so, he might give rise to some of those inconveniences which were so likely to arise from mooting it. He had declined to answer the questions put to him by the noble and learned Lord, not because he was incapable of doing so, nor because he believed, that any great inconvenience would arise from his doing so; but he submitted to the calm deliberation of noble Lords, whether the noble and learned Lord had laid any grounds for his motion, or advanced any reasons why their Lordships should call for the production of papers? He knew, that for some time the greatest facilities had been afforded in the production of papers, so that any man, with a view to the discussion of anything that he thought proper, might get almost any information that he required; and that he might have also any documents that he desired, in order that he might search for, and find charges in them; and this was conceded, in order that they might save debate and trouble, and in order to save topics from being discussed prematurely. The practice, however, had been attended with great inconvenience to the public officers, and had been accompanied with a great increase to the public expenditure. The rule of Parliament had hitherto been, that no papers should be laid on the table of either House, unless some sufficient reason had been previously stated, why they should be produced, and why they should be laid before Parliament. He begged the House to recollect on what foundation this motion rested—it rested on an observation of the noble and learned Lord opposite, who, in winding up his very eloquent attack on the conduct of the Government, with regard to the policy they had pursued in Spanish affairs, said, "if it was true, that an order was issued from the Admiralty, to attack certain vessels from Sardinia with stores for Don Carlos, all he could say was, that it was owing to good fortune, rather than to the prudence of our Government, that we were not now involved in a war of a far more serious and extensive character, than he was sure had been contemplated by her Majesty's Ministers." This remark of the noble and learned Lord opposite, was founded on public rumour, and the noble and learned Lord's speech, that night, was founded on the extract which he had just read. Was this a sufficient basis on which, to give rise to a judgment against the Government, with respect to the affairs referred to by him, namely, those of Spain? He, however, also protested against the motion in a high degree in consequence of its impolicy and inexpediency. He said, that it was an impolitic, inexpedient, and imprudent motion, because it might tend to excite a jealousy and suspicion against the Government for the time being administering the affairs of this country. Let noble Lords condemn the present Government as they pleased or wished — let them remove it as soon as they were willing to do so—let them take a division at once to remove it from power, but while it had the control of public affairs, in God's name do not sanction any motion, which would lessen its influence in its transactions with foreign powers. Supposing, that anything had taken place, such as had been described by the noble and learned Lord, and supposing, that it had been successful for the object in view, was it the wish of any noble Lord, and was it the part of any prudent man, to state to foreign powers, that if the matter had been called in question in the Parliament of this country, the subject would not have been approved of in it? Would this have been a wise or prudent course to pursue? Was it promoting its duties to the nation, the administration of whose affairs it was charged with, to allow such a course to be pursued? The noble and learned Lord had entered upon a learned argument, respecting the law of nations and the law of trade as regarded neutrality in time of war, and the principles which he stated, were no doubt sound; but whether this was the proper law applicable to what had taken place, he could not answer until he knew what had taken place. The noble and learned Lord's motion was of a searching nature, and he trusted whether there were or were not existing instructions of the kind now moved for, they would not require the production of these instructions. It struck him, that no ground had been urged sufficient to justify their entering into an inquiry; or to their calling for these papers. He did not feel called upon to state, whether the facts which the noble and learned Lord had stated were well founded or not; but he held, that it would be most impolitic and imprudent to assent to the motion, The Earl of *Ripon* heard the observations of the noble Viscount with very great surprise, for he appeared to leave out of consideration, the whole merits of the case. The whole object of the noble Viscount seemed to be, to wish to show, that the whole case of his noble and learned Friend, rested on some antecedent observations which had fallen in a former debate, from another noble and learned Friend of his. But was it not notorious, that the observations which the noble Viscount would have the House believe were founded only in popular rumour, had been treated as real facts by the noble Earl at the head of the board of Admiralty? What was said by the noble Earl on that occasion? "That if he had received information, that any foreign state was about to send succour in the way of arms or men to Don Carlos on the coast of Spain, he would have issued instructions to the officer at the port to prevent the landing of the troops." Was it not as clear as daylight, from the noble Earl's observations, that orders had been issued of the nature which he had described? The noble Earl stated, that if there were a hundred ships on the coast of Spain, he would have given such orders. This was sufficient to create great alarm in the minds of any parties as to the course that would be pursued. If, however, they attended to the arguments of his noble Friend at the head of the Government, and abided by the rule laid down by him, their Lordships never would get any information, nor would the Ministers ever give any to either House in any transactions whatever connected with foreign affairs. If they had been told, that negotiations were going on, and that the adoption of the terms of the motion would lead to a failure of the treaty, and that it was impolitic for Parliament to interfere with the Government, under the circumstances of the case, he could imagine that a sufficient reason had been stated for withholding the papers; but if the House believed what had been stated, namely, that the instructions issued had been successful in their object, and had prevented Sardinian vessels entering the ports in the north of Spain with supplies for Don Carlos, it was a by-gone transaction; and, therefore, it was a question open to discussion. If the House consented to restrain the discussion of that question on the ground stated by the noble Viscount, namely, the possibility of displeasing a foreign power, on the same ground no question of foreign policy should be discussed, because it involved the possibility of displeasure, and war with the world. He did not mean to say, that Parliament should act with unreasonable jealousy on these questions, but still they were questions well worthy of the attention of Parliament. He did not see what there was worthy of praise in these instructions, for they were as likely, as anything could be, to engage us in a war with all the neutral powers in the world. He approved of the acknowledgment of the Queen of Spain, and he thought that the quadruple treaty was a wise and expedient measure; but it should be remembered, that it was framed with the view to promote the interests of Portugal, and not those of Spain. He denied, however, that the additional articles were any necessary parts of the treaty—they were added long afterwards, and were not a necessary consequence of the treaty. He could not conceive, that it was part of the original treaty that they should risk a war with all the neutral governments in Europe for the sake of the Queen of Spain. He could hardly tell what vote he should be induced to give, but he trusted that their Lordships would receive a more satisfactory explanation than had hitherto been presented to the House. If the noble Lord at the head of the Government said, that the public service would be injured by the production of these papers, he hoped that such was his sense of duty that he could not, for one, consent to press the Government for papers which the Minister declared before Parliament, could not be produced without detriment to the public service. But not a single reason had been given as an argument for the non-production of these documents. Of one thing, however, they might be quite certain; and this from the speech of the noble Viscount, that the instructions were sent to the naval officers on the coast of Spain; secondly, that they had had the influence and produced the effect intended; and, thirdly, that there had been no necessity to act upon them in any case whatever.

The Earl of *Minto* said, that notwithstanding the able and eloquent manner in which the noble and learned Lord made his statement to the House, and in which he was supported by the noble Earl, on the ground which he had just stated, it was clear that the motion was nothing more nor less than a fishing motion, to see what could be got from them. The object of it was not to get any instructions which had been acted on, but to call for contingent instructions which had only been framed for temporary and not for permanent objects. He believed, that this was the first time in which such a demand had been made; and should their Lordships agree to the motion, it would certainly be the first time such a demand had been successful. It appeared to him, that there was nothing in the noble and learned Lord's speech which was in opposition to the quadruple treaty and to the additional articles, to which the noble Lord had also been a party, and that they had been faithfully executed. What were the additional articles? The first was, that steps should be taken to guard against the introduction of arms and warlike stores into Spain. It was, therefore, clear what was the object of the second article. The words of the article were—"His Majesty, the King of Great Britain and Ireland, engages to furnish to the Queen of Spain, such supplies of arms and warlike stores as the maintenance of her cause may require, and, if necessary, to furnish a naval force." In what way, then, were they to lend assistance by means of a naval force? It was only by preventing the invasion of the country by other states, that efficient aid could be afforded. Might they, therefore, not say, then, that these instructions were framed with the view to restrain those who were hostile to the Queen's Government, and that this was the only effective mode in which they could hope to render assistance? The noble Earl said, that the instructions might involve us in a war with Spain. The noble Earl was no party to the additional articles, but the noble and learned Lord was; and, by the second of these articles, as he had shown, they were required and bound to give the assistance of a naval force to Spain. This was framed on the presumption that some other countries would send, not merchantmen, but men-of-war, to the coast, to take part with Don Carlos against the Government. Their ships appear on the coast of Spain, and the Government then begs aid of its allies, and says, "This is the time of want; you can now be of service to us; will you not give us all the aid in your power?" These were, as nearly as possible, the facts of the case; and he did not see how it could be said, that they gave the co-operation of a naval force if they refused such aid. He contended, that they could not be released from their obligation of preventing the cruisers of the friends and supporters of Don Carlos landing on the coast; and this could only be done by means of armed ships. The noble Earl adverted to the danger which was likely to result from taking such a step; but this was a matter to be considered in reference to the policy of the treaty, and the additional articles and the objects of that treaty had been strictly and faithfully carried out at the time the noble Earl was Secretary for the Colonial Affairs, and in a manner in which he trusted that treaties would always be carried out in this country. If this country was distinguished for one thing more than another, it was for its strict observance of the obligations of treaties with fidelity, and more than fidelity; it had ever been remarkable for a full and entire observance of them, and for never attempting to escape from the obligations of treaties by any verbal quibbles, or nice or technical distinctions. The noble and learned Lord had dwelt at great length on the rights of neutrals, and on the question of blockade. Now, he did not suppose that the Government was charged with issuing orders for a blockade of the coast of Biscay, but the charge was, that certain armed ships belonging to Sardinia, being about to invade the coast of Spain, that he attempted to prevent it by instructions to the naval officers.

Lord *Brougham* denied, that he had said anything respecting the invasion of the coast by the Sardinians and Dutch, but merely of ships carrying arms and stores, and other contraband of war.

The Earl of *Minto* had no wish to misrepresent the noble and learned Lord, but he would proceed to another topic. He was most anxious to pay all attention to the rights of neutrality; but they had no intention to institute a blockade against the trade of other countries. The noble Lord argued as if a gross attack had been made on the rights of neutrals, and yet the whole subject matter of the charge that he brought was, that orders had been issued or warning had been given, to the Sardinians not to send ships laden with arms and other warlike stores to the coast of Spain for Don Carlos. He must say, that if he had thought it to be his duty to issue such orders, he should have also felt it to be his duty to give other persons full intimation of their existence, and he would not issue them without giving full notice of such orders to all persons likely to be affected by them. The noble and learned Lord then made some observations on defensive treaties, and said that there existed a defensive treaty between Sardinia and Austria, and that if we committed an assault or aggression on the former, that we should compel the latter to come to her assistance. If there was such a treaty, and Austria was bound to come to the aid of Sardinia, he would say that our treaty with Spain was much stronger than this general defensive treaty. He could not sit down without referring to one topic more; he meant what he had intimated on a former occasion as to certain communications supposed to have been made by an officer serving in her Majesty's navy on the coast of Spain, relative to those instructions. He did not wish to allude more particularly to this subject, as he had no wish to denounce individuals, but the practice. And he felt bound to say, that notwithstanding the opinion of the noble and learned Lord was so unhesitatingly expressed, it was felt by the highest officers in the service that the proceeding alluded to was a gross breach of that confidence and trust which should exist between the officers of the service and the Government. He trusted, that he should never hear of another example of such a proceeding. If it was not for the high sense of honour and perfect confidence which always had been found to exist between the Government and the officers of either service, whatever their political opinions might be, it would be impossible to carry on the affairs of the Government with any degree of satisfaction; or it must necessarily lead to the employment of officers of the same shade of political opinions as the Government. Since he had been at the head of a department he made as little distinction as possible in the selection of officers as regarded their political opinions. He could mention the names of several officers who had been appointed to important stations chiefly through his instrumentality; and these were men of the highest respectability; and although they differed from him in political matters, there was no want of cordiality or confidence as far as regarded the public service, and they were quite as much in his confidence as those officers whose political opinions coincided with his own. For instance, he could mention the names of Admiral Sir R. Stopford, Admiral Ross, Sir George Cockburn, Sir P. Halkett, and above all, the officer with whom he was more immediately connected as regarded this question—he meant Lord John Hay; and notwithstanding what had taken place, his communications were carried on with that honourable man with that perfect degree of confidence and sincerity as if Lord John Hay altogether agreed with him in political opinions. He need not say, that almost as a matter of course, orders and instructions were issued to officers which it was intended should not be communicated to the public. This was the character of the communication which the noble and learned Lord had thought it proper to avail himself of for a political object. Such was not, however, the opinion of the gallant officers whom he had named as belonging to this honourable profession, and such had been the result of his communications with them. He greatly regretted, that this proceeding should have occurred, and he was quite willing to believe, that it would not have occurred if the gallant Officer who sent the communication to the noble and learned Lord had taken a little more time for reflection before he did so. In conclusion, he felt bound to designate this proceeding as one of the greatest acts of indiscretion that he recollected, and if repeated would do more than anything else to impair that confidence which should always exist between officers in the naval service of the country and the Board of Admiralty.

Lord *Brougham* contended that he had repeated *usque ad nauseam* that he had not had any communication with any naval officer on this subject. If there had been any breach of confidence that had been committed by the noble Earl himself, for he it was who had stated in that House what he was surprised that others were acquainted with. It was nothing more nor less than a creation of the noble Earl's brain for him to assume that any officer had told him of these instructions. He was, however, confident that such instructions had been issued, and this arose from the language of the noble Earl himself. He once more denied, that there was any breach of confidence. The noble Earl had stated that a noble and learned Lord had alluded to a person in the naval service. Now, no allusion of the kind was made to any such person; but the person alluded to served on shore, and had nothing to do with the sea.

The Duke of *Wellington* could assure their Lordships no man felt more strongly than he did, that if any officer in high command had betrayed the confidence reposed in him by the noble Earl opposite, or by her Majesty's Government, such officer was not one of those who deserved the just reputation which belonged to her Majesty's navy. But he did not believe, that the noble Earl would find in that service, at least, as far as he was acquainted with it, one single man capable of betraying whatever confidential instructions were delivered to him by the noble Earl opposite on the part of the Crown. But it should not be forgotten, that such instructions might occasionally come to be known without any participation on the part of the officer to whom they were delivered, and he believed the officers in her Majesty's service to be as incapable of betraying their instructions as any Member of her Majesty's Cabinet. Having said thus much, he must observe, that the present question was not exactly one of blockade, and he confessed, that he was much surprised, from what he knew of this subject, that any question as to blockade should arise on the second article of the treaty. If he was not mistaken, he had a discussion with the noble Viscount opposite (Viscount Melbourne) somewhere about twelve months back, and he had then stated, that there could be no such thing as a blockade under this treaty, and in that opinion the noble Viscount, after inquiring into the matter, concurred. Therefore the motion of the noble and learned Lord opposite did not originate, as had been contended, in a question of blockade, but it originated in the first instance upon a statement made by his noble and learned Friend who spoke from the benches behind, (Lord Lyndhurst), and next on a statement made by the noble Earl opposite himself, the First Lord of the Admiralty, a statement which the noble Earl had again repeated to-night, that he should consider himself justified if he had issued the instructions in question, in case it was found, that any foreign Power was about to send arms to Spain, and then to-night the noble Lord came forward and endeavoured to justify his instructions in reference to the second article of the treaty. The noble Viscount at the head of the Government deprecated this motion, and had entreated their Lordships not to agree to it, on account of the inconvenience it would produce to the operations of her Majesty's Government with regard to the proceedings now carrying on in Spain. The noble Viscount said, that the present motion would stir up a question that was exceedingly inconvenient to her Majesty's Government. Now, certainly he was not disposed to create any inconvenience to the Government on a question of this kind, but he begged to ask, was the country to be drawn into a war on the score of the words of a treaty which were stated by the noble Earl to mean, that this country was bound to give the aid of a naval force under this article as under a treaty of defence? That he was sure was never intended to have been the meaning of this article. It had never been so construed, and had never been so acted upon by any Government, or by any of the noble Earl's predecessors. Now, these were the words of the article. First of all there was a preamble, that recent events in the Peninsula made new measures necessary; then it states, that the King of the French engaged to take such measures as would prevent succours of men and arms entering Spain from the French territory, and the King of the United Kingdom of Great Britain engaged to supply her Majesty, the Queen of Spain, with such arms as she might require, and further to assist her Majesty, if necessary, with a naval force. From this article could it be said there was any engagement to furnish the Queen of Spain with a naval force under all circumstances, and to defend her against invasion? No, certainly not. The naval force there mentioned intended no blockade at all, for there being no war at the time, there could be no blockade; but it was intended to aid the Queen of Spain (as it was first used) in the transport of troops and succours from one part of the coast to another. In short, it was required for the purposes for which a naval force in time of peace was usually employed; but the object of the treaty never was to involve this country in a war; it had never been so taken by Parliament when it was communicated to them; it had never been so stated until the noble Earl, the First Lord of the Admiralty, had done so this evening. It was, therefore, he thought, necessary for their Lordships to intimate, that the words of the treaty meant a naval force to carry troops, &c., for the Queen of Spain, but for no other purpose. He also thought the House ought to have some further information, in order precisely to know in what position the country stood, before any further proceedings were taken.

The Earl of *Carnarvon* was understood to say, that the noble Viscount had observed, that the noble and learned Lord who had brought forward the present motion had laid no sufficient grounds for the production of these papers. Now, he thought, that after what passed in the course of conversation, even if the motion were founded on mere report and rumour, still the information required ought to be furnished. It had been said by the noble Earl opposite (the Earl of Minto) that the danger that might have been anticipated from those instructions passed away, and, therefore, the papers were not necessary; but how did their Lordships' know, that the dangers were passed? Might they not still exist, and be as great as they were two years ago? He thought the country had to thank a sort of chapter of accidents, that with such instructions, the peace of Europe had not long since been broken. He was therefore, for the production of these papers. It might be inconvenient to the Government, but he thought there was much less of evil in the Government being taunted with their lamentable policy in the Spanish affair, than that this country should be dragged into a perilous war, the end and results of which no man could foresee. What security was there but that the humble Sardinians, on being interfered with under these instructions, might read this country a much severer lesson than had the Basque mountaineers? The noble Earl at the head of the Admiralty had inferred from the article of the treaty, that his course had been sanctioned, because by that article Great Britain had agreed to assist the Spanish Government with a naval force, but from the absolute want of information from her Majesty's Government no one could know whether the orders of the noble Earl were applicable only to Sardinian vessels, or applicable also to the vessels of all other foreign nations. If her Majesty's Ministers had issued these instructions against nations of greater power than Sardinia, they had exhibited a strange infatuation; but their course, even as to Sardinia, had been extremely impolitic. It was a maxim that Austria had for the last 150 years been the constant ally of this country. Sardinia had always followed the policy of England and of Austria, and to Great Britain had ever been steadfast and true. Before the last general treaty of peace, she had been considered so friendly to this country, that she received a large addition of territory, and acquired increased importance. It was not wise, therefore, for the sake of serving—a miserable party he would not call them, but a party in Spain, from which this country, did not reap either gold or gratitude, thus to sacrifice Sardinia, to which England had been so long attached. He would not further trespass on the House than to entreat her Majesty's Government not to betray her foreign allies one after another, and not to alienate from this country the conservative feelings which in foreign minds was now very considerable. He implored them not by wild acts, which since the wretched conflict in Spain had characterized their policy, to risk the loss of a tried and steadfast friend to gain a new political ally, in whom he much doubted whether they could place the least possible reliance.

The Marquess of *Lansdowne* would not attempt to follow the noble Earl who had just sat down, through a history of treaties and alliances, for that was not the question now before the House. The question now under consideration narrowed itself simply to this—whether the supposed instructions known only, or alleged to be known only, by public rumour and report, and which had been supposed to have been issued two years ago, which it was admitted had never been acted upon—which it was also admitted were only applicable to contingencies that never had arisen, should be produced and laid before the House. In applying himself to state the simple and obvious arguments why the House should not entertain a proposition at once so new, so inconvenient, and so destructive of the policy of the country towards foreign nations, he should not allow himself to be betrayed by any anxiety which he might personally feel, to state what those instructions were, and to remove the great errors upon which noble Lords had in this matter proceeded, because he was aware that if he went into such a statement of facts, it would be alleged that he was laying grounds for the production of those instructions. He would consent to lay no such grounds, because he felt it would be detrimental to the public service if these instructions were produced. The noble and learned Lord who had brought forward this motion had said, that the person who had made the revelation on this occasion, who had stated to the House what ought not to have been stated, was his noble Friend, the First Lord of the Admiralty, for, observed the noble and learned Lord, the noble Earl had admitted, that he had issued an instruction. But his noble Friend had undoubtedly added, that the instructions he had issued, were instructions to meet contingencies. Was that a revelation inconvenient to the public service, or was it a revelation which constituted a ground for the production of those instructions? His noble Friend had not stated the actual instructions issued by him; it would be wrong for him to do so, as it would be wrong for any public officer to reveal and lay before, not only the House and the country, but before the States of Europe, that course of policy which on a certain contingency the Government, for the defence of the nation, and the maintenance of its best interests, were prepared to recommend. His noble Friend, on a former occasion, had even put the case hypothetically, that if an event had taken place, he would have taken a particular course; but he had not stated, what that particular course would have been. In like manner he was debarred, by what he owed to the interests of his country, from going into a discussion of those matters into which, if this was a vote of censure, he should be entitled, as he was prepared, to enter. At present, he was not justified in doing so; but it was still his duty to beseech their Lordships not to come to a vote on the present motion, without considering what the consequences of its adoption practically might be, here and elsewhere, with regard to the policy of this country towards foreign States. The noble and learned Lord had talked of the interests of peace, and he did not dispute the interest which the noble and learned Lord had long taken in that subject; but the noble and learned Lord had talked of the dangers to peace arising from supposed instructions which had never been executed. What danger would there not be to the peace of Europe, if, following the principle now laid down for the first time, it should be said, on mere suspicions entertained and picked up from public rumour, or from an officer who had betrayed his trust, that on these things being alleged, an immediate revelation was to be made to the world of the course of conduct which, when these circumstances which suspicion had entertained had happened, the Government would be prepared to pursue, to state in what sense they would be prepared to construe, and to execute existing treaties, and to inform the world how far they would step beyond the line of the treaties in force, in vindication of the first interests of the country. But would it be proper, on such mere rumours, for the Government to step forward, and state the vigorous and commanding tone of policy which particular circumstances might call for and require? He would maintain, that no Administration could stand such a course— no foreign policy could be maintained, if such were the temper of this and the other House of Parliament, as to require information on the principle sought to be established, for the first time, by the noble and learned Lord. He would appeal to the noble Duke opposite, who had been at the head of the affairs of this country, who had presided over the foreign Department, whether, being in that high station, he should have thought himself treated with that confidence which he might justly ask and demand—if, on an unfounded rumour, that Russia was taking a particular situation which would affect the whole interests of the nation—if, on a mere suspicion of that kind, Parliament had stepped forward and desired to obtain from him a revelation of the course which in such case he should advise the Sovereign to pursue. He did not believe, that during the Administration of the noble Duke, nor at the present time, would Parliament be prepared to call for any such information. He well knew, that if the information were granted, it might excite more jealousy and rivalry, and more surely bring into activity those elements of war (which it was the duty of all governments to allay), than all those events alluded to by the noble Earl on the cross benches (the Earl of Carnarvon), which had produced from time to time interruptions to the public tranquillity. The noble and learned Lord had ridiculed the idea that the instructions contained anything of a confidential character. The noble and learned Lord was under the delusion that the instructions had been executed by a frigate with 600 men in one place, and by 700 men in another place. If that were so, of course, the instructions once acted upon ceased to be confidential, for they were then made known to the world. But before executed, as in this case, the instructions were confidential; they were so while they remained in the cabinet of the statesman prepared to meet uncertain events, and to be produced if the evil occurred, but involving risks, dangers, and uncertainties, about which it was unwise to inquire. Were not these the most confidential transactions that took place? and both the Government and those whom they employed in the matter were charged with the sacred duty of concealing from public knowledge those arrangements, the promulgation of which, might endanger the peace of the world. He maintained, that the present motion, if adopted, would lay the foundation of a most dangerous precedent. If it was the pleasure of the House to call for these instructions, he begged to wash his hands of the precedent which hereafter might frequently be brought into play and made to bear upon the nicest operations of all future Governments, but, at the same time, he claimed the right hereafter of saying, that the precedent had been made this night.

The Earl of *Aberdeen* said, it could not be denied, that for some time past the conduct of this Government, and that of other countries, had contributed to cast doubt on the principles and practice avowed and recognised by the laws of nations. On several occasions the practice had been doubly odious, because these acts of violence had recently been always committed against the weak and powerless, whilst this country had buckled to the powerful and the strong. The noble Earl opposite (Minto) had justified this under what he termed the obligations of the treaty; the noble Viscount at the head of the Government was too prudent to do so, and the noble Marquess who had just sat down had not ventured to justify this proceeding on any such grounds. But the position taken by the noble Earl, the first Lord of the Admiralty, had given to the subject an interest tenfold greater than he had anticipated could be connected with it. He had always objected to this treaty; still, if the noble Earl opposite could make out that this country was bound by the articles of the treaty to the extent for which he had contended, then, in that case, bad as the treaty was before, in his judgment, it was made still worse, for it brought the country to the very verge of a state of war at any hour. The noble Earl had stated, and he thought had stated truly, that this country was distinguished and eminent for its fidelity in the maintenance and execution of treaties to which it was a party. That, however, had not always been the opinion of the noble Viscount (Melbourne), for he well remembered, some years ago, the noble Viscount, then sitting on the Opposition side of the House, on making a motion for a long list of papers connected with the Peninsula, entered into a review of the treaties which England had violated, the allies she had deserted, from the treaty of Utrecht down to the time at which the noble Viscount spoke, and he made it clear, that no country was so disgraced by a want of adherence to treaties, as was Great Britain. He then differed from the noble Viscount, and now concurred in thinking, that in this respect, the noble Viscount's colleagues was right; nay, he would go further, and say, that the more democratic was the country, the less binding and scrupulously were treaties held and observed. Be that as it might, if this country were strict in the execution of treaties, the more important it became, that the country should know what the obligations of its treaties were. Now, the second article of this treaty was binding upon Great Britain to furnish the Queen of Spain the assistance of a naval force if necessary. And the history of that article was, that at the time the treaty was concluded her Majesty's Government believed, that under it they would be able to exercise the right of blockade. Further inquiries, however, served to prove to them, that they were unable, except in a state of war, to exercise the right of blockade or to stop a British, or any entering ship. When this was discovered, they exercised their naval co-operation in another manner—namely, by conveying troops and succour to various ports on the coast of Spain. The noble Earl opposite had said, that the naval force was instructed so stop the Sardinian vessels with all possible politeness, but could it be supposed, that a Sardinian officer, in no respect different from those of this country, would be put out of his course with impunity? Knowing the character of that military nation, could it be supposed, that a Sardinian commander would tamely submit to be stopped by an English force? The result, therefore, would have been, that the Sardinian frigate might have been sunk, and then the Sardinian people, though feeble in comparison with this great nation, but still possessing a high military spirit, would have sought reparation, and the peace of Europe been disturbed. Now, this state of things was entirely, he thought, to be attributed to the noble Earl opposite (the Earl of Minto). He had seen reports in the public papers of her Majesty's Government having given orders to stop the approach of Sardinian frigates to the Spanish coast; but he did not believe it possible, that as had been stated by his noble and learned Friend (Lord Lyndhurst), on concluding his speech some time ago, this had been the case, and that it was matter of good fortune that this country was not now at war. And what had the noble Earl opposite (the Earl of Minto) said since? Why, that if the instructions did not exist, yet that if such a state of things had arisen as to call for their being issued, he should immediately have issued such an order. The noble Earl had then asked if the knowledge of those instructions had not been acquired through a breach of confidence on the part of an individual. Did not that inquiry prove beyond the shadow of a doubt that such instructions did really exist? And now to-night the noble Earl said, that not only would he have issued them, but that this country was bound under the articles of the treaty, which it was said could not be deviated from. It had been said, that this motion was injurious to the policy the Government were pursuing, but he thought that after what had taken place the House and the country had a right to know what the course of the Government was. Was it war or not? They might flatter themselves that they could exercise a domineering spirit over weak powers, such as those of Sardinia and Don Miguel, and of other feeble States; but what would be its effect on the opinions of other and more powerful nations? He, however, hoped still to see Sardinia attached to Austria, a circumstance of the highest possible importance to this country. The noble Marquess opposite had opposed the motion as injurious to the public interests. But how had the question arisen? Why, if the noble Earl who presided over the Admiralty had taken no notice of the remarks of the noble and learned Baron (Lord Lyndhurst) the other night, the subject would have passed by as a mere rumour. But it had been otherwise, and hence this discussion. The noble Marquess also had appealed to the noble Duke near him (the Duke of Wellington), and asked how, upon the suspicion of any supposed encroachments by Russia, he would feel if asked the course he would pursue upon such and such contingencies. But that was an hypothetical case, not at all resembling the present. Here the fact was not only created, but still existed—not only existed but the noble Earl stated, that he had been bound to create this state of things under the treaty. His noble Friend (the Duke of Wellington) might justly, therefore have declined to give information as to what he might intend to do; here the case was different, for the act was done, and had been promulgated by the noble Earl himself. He, the noble Earl, praised the act done but he complained of its having been found out; and that made him desire accurate information to enable the House and the country to know the situation in which it stood. It was too much for the noble Earl and his colleagues to bring the country into jeopardy, and then tell the House they ought not to interfere. But if any one of the noble Lords opposite would get up and state that these supposed instructions were of non existence, the matter would be at an end. Failing that, he thought they were bound to the House and the country to state the condition to which their policy, as they called it, had brought the country. Whilst he (the Earl of Aberdeen) protested against the spirit of the quadruple treaty, still he wished to see its letter honestly carried out, and not extended to suit the caprice, the passion, or the prejudices of any noble Lord. The King of the French had interpreted it as a wise and honest man ought, and yet the noble Lords opposite, who had taken credit for limiting the extent of interference in the affairs of Spain, now availed themselves of the vagueness of the treaty to extend to any degree the nature of their interference. But, according to the interpretation of the noble Earl opposite (Minto), the second article was a treaty of defence; defence against whom? The Queen of Spain was no enemy. It was true Don Carlos had not been recognised as an independent state, and most undoubtedly this treaty, so far from being defensive, was offensive against all the world. He was one of the first to say, that he thought the noble Lord opposite did right to recognise the Queen of Spain; but still it was a question of great doubt even to the Spanish nation, and what was there to prevent other nations from taking a different view, and under that view to assist the rival claimant of the Crown? Nay, some time ago the noble Secretary for Foreign Affairs admitted, that other powers had a right, not only to acknowledge Don Carlos, but to assist him. That might, perhaps, be done without bringing us into collision with those Powers which took a different part from ourselves, but it was a state of things which could not long exist. The treaty, then, was really an offensive treaty with the Queen of Spain against the whole world; but the King of the French was much too wise to put such an interpretation upon it. The engagements of such a treaty appeared to be all on one side. The Queen of Spain was to endeavour to govern Spain pacifically, and that was all. But if this treaty was binding in the way the noble Lords opposite interpreted it, then it would bind us to interminable interference with the affairs of Spain so long as any cause of trouble or dispute remained, because the preamble set forth that the pacification of Spain was the object of the treaty. The noble Lord opposite said the first treaty was completed by the expulsion of the two princes from Portugal. But this treaty proposed, not the expulsion of Don Carlos, but the pacification of Spain; and, therefore, it could have no termination. It appeared to him, that the interests of this country required that it should come to an end. He had not looked at the treaty with all the attention he should have looked at it if he were obliged to interpret it as the noble Lords, and still more as the noble Earl at the head of the Admiralty had interpreted it. He thought, that if those noble Lords would examine the treaty more closely, they would not find any difficulty in bringing it to an end. He should support the motion, because it would enable their Lordships to understand precisely the position in which the country stood in relation to this subject.

The Marquess of *Londonderry* said, amidst repeated cries of "Question," that the noble Earl had himself only to thank for a motion which it was his duty to support.

The Duke of *Wellington* could not permit the House to come to a division on this subject without addressing a few words to their Lordships, in consequence of what had fallen from the noble Marquess opposite, who had stated, that this was a question of policy upon which addresses had been moved which were very improper and very inconvenient to the public service. But this was a question of treaty. The noble Earl at the Admiralty had stated it to be so. The noble Lords opposite ought to make themselves clearly understood on this point; and he entreated them not to send the House away with the notion that they were calling for papers which it would be inconvenient for the Government to make public. They ought to explain what they meant by the obligations of the treaty. If there was a defensive treaty, as stated by the noble Lords, let it be shown to be so. Were they, by words or by implication, to be involved in a treaty either offensive or defensive, and have no power to ask the question as to the obligation of the treaty, let what would happen? In the case of a quarrel between the Queen of Spain and the King of Sardinia, we might be bound to go to war. The noble and learned Lord had given sufficient notice of his motion, and of the very terms of his motion, and the noble Lords opposite ought to be prepared with an answer. They ought to say something which would make the House avoid putting the Government to any inconvenience, and to explain what was the meaning of this treaty with respect to this paragraph, of which the noble Earl had thought proper to give something.

The Earl of *Minto* wished, in explanation, to prevent any misunderstanding arising in the mind of the noble Duke as to what his opinion was with regard to the obligations of the treaty. In the first place he begged to observe that in stating what he had said, and what he now repeated, he was delivering not the deliberate opinion of the Government, collected after consultation, but his own individual opinion. Now let their lordships permit him to state what was his own opinion, whether it was upheld by others or not. The obligations of this treaty went to this; that if any power—not if any power had a quarrell with the Queen of Spain, that we were to make war, as the noble Duke had supposed—but if any powers combined with Don Carlos in warlike operations, he did hold, that the obligations of the treaty were to be strictly enforced. He did not understand that this treaty would apply to any other case except that which might arise in the contest between the Queen of Spain and Don Carlos.

The Duke of *Wellington* said, the noble Earl was at the head of the Admiralty, but he could not have given his instructions without first receiving them from the Secretary of State. The noble Lord might come down to the House and give what version he pleased with respect to the obligations of the treaty; but when he came to the instructions, he ought to look twice at the subject, for he must be quite sure that he had received them from the Secretary of State before he gave them.

Viscount *Melbourne* said, he wished to say a few words after what had passed. In the observations he had advanced before, he had studiously avoided discussing any of the matters which had been brought forward by the noble and learned Lord, because, notwithstanding the powers, the eloquence, and the talents of that noble and learned Lord, he had so much confidence in the patriotism, and wisdom, and experience of their Lordships, that he flattered himself that in a few sentences he could convince them that it was in the highest degree imprudent to enter into such a discussion. In that hope he had to a certain degree been disappointed, and it was not now his intention to depart from that resolution which he had made before, and to go into any parts of the question for the purpose of considering what had been done, or what was supposed to have been done, or what should yet be done or whether what was done was demanded by the treaty, or was beyond its boundaries, and entirely removed from its meaning and not authorized by it. He would not enter into that, because he should be departing from the rule which he had laid down. If this question ought to be discussed at all, it ought to be discussed fully; the whole case ought to be investigated, and the discussion should be carried on with an accurate knowledge of the whole case. With respect to the treaty, he entirely agreed with the noble Duke in the interpretation he had put upon it. He agreed that a naval force should be employed to carry into effect the objects of the treaty, as they were to be collected from the preamble, and that it was not in any respect a treaty of alliance, offensive or defensive, with the Queen of Spain against the rest of the world. He agreed with the noble Earl opposite with respect to the opinion of his noble Friend, the Secretary for Foreign affairs, delivered in another place, that any power had a right to assist Don Carlos. But whether that would lead to a war was another question. With respect to the instructions, he had considered that matter was set at rest, because those instructions were confidential, and the question of their having been carried into effect not having arisen. He still held the opinion which he had held at the commencement of the debate, that the production of those instructions would be most inconvenient, and tend to embarrass the policy of the Government; it would encourage those who were opposed to that policy, and discourage those who were inclined to assist it.

Lord *Brougham* said, amid loud cries of "Question," he would not detain the House a moment. He defied the oldest individual in the world to find in the history of Administrations down to the present time, a parallel case to that of the present Administration. Could any mortal man have thought to see such a display as they had made of themselves? Could it have been expected that such a display would have been made by the First Lord of the Admiralty? The very thing which that noble Lord had used against him, as an *argumentum ad hominem*, the noble Viscount in a moment of extreme pressure, in the utmost exigency, had got up in a second speech to disavow. But when the noble Lord at the head of the Admiralty said it was not disavowed, he was supported and cheered by two Members of the Cabinet. Now the noble Viscount disavowed it and would go no further than to say, that we were bound to give naval assistance to the Queen of Spain. Whether the treaty was offensive or defensive, one thing was clear—her Majesty's Ministers were thrown into a defenceless situation—in fact, they were in a most awkward position, in a most helpless condition. The noble Viscount's speech was entirely destitute of argument from the beginning to the end; it had not a single rag to cover its nakedness. The Government felt they were in an awkward situation; but they said to themselves, after some hours' debate, "This is a troublesome business! If we had only happened to have thought of the suggestion of the noble Duke which he has thrown out as a plank to save us, like many others which he has thrown out to us in a moment of difficulty, we might have avoided all this." The noble Viscount had appealed to the patriotism, and prudence, and love of justice of their Lordships, but he ought to have added, that he trusted to their Lordships' gullibility. For the noble Lord must have thought, that he was addressing the weakest, and feeblest, and most gullible of all gullible minds, if he hoped to persuade their Lordships not to vote for this motion without assigning any just reason or convincing proof that they ought to reject it. He hoped their Lordships would not abstain from voting for the motion, and thereby doing their utmost to undo all the mischief that had been done.

The Duke of *Wellington* said, that after what the noble and learned Lord had said, it was impossible for him not to address a few words to their Lordships before they came to a vote on the motion of the noble and learned Lord, which was founded on the question of blockade.

Lord *Brougham*: It really was not founded on the question of blockade. The noble Duke has mistaken my argument. I said, that even had there been a blockade, it would have been illegal; but there was no blockade.

The Duke of *Wellington* resumed: The noble Lord had stated, that the instructions were founded on the treaty, and he had said, that it was impossible that they should not call for the papers to see whether the instructions were connected with, or founded on, the treaty, and whether, in fact, we were bound by the treaty. The noble Viscount had since stated, that he did not concur in that view of the case; that the noble Viscount considered the view which he and his noble Friend near him had taken of the nature of the treaty, to be a correct view; and that the Government was not bound by the terms of that treaty to issue such instructions as those adverted to. The noble Viscount had declared, that it would be detrimental to the public service to produce those instructions. Now he did not approve of the policy of those instructions; and, except what he had heard in the debates of that House, he knew nothing of those instructions; but, as far as he understood, they never had been acted on, and he thought it most likely that they never would be. Under these circumstances, he confessed, that he felt induced to ask their Lordships not to call for the instructions which the noble Viscount had declared, would be detrimental and inconvenient to the public service to produce.

Lord *Brougham* said, he was not at all surprised at this. He had somehow, from the first moment he had entered the House, thought the case was so strong and irresistible, and though the noble Viscount's speech proved it ten times stronger, still he had some suspicion that the saviour of her Majesty's Government, the saviour of the present Ministry over and over again, the true friend, indeed, because the friend in need, he whose friendship rose in generosity exactly in proportion as their necessities pressed upon them, that he would once more be more or less encouraging, and more or less intelligible or unintelligible, and come down with his powerful assistance to defeat the motion, and undo the good which that motion would do. But let not the noble Duke go away laying the flattering unction to his soul that this treaty had not been acted on. It had been acted on to a certain extent; that had been bragged of, and the noble Lord at the Admiralty could not help letting it out.

The Earl of *Mansfield* said, it had not been his intention to say any thing on the present occasion, but the noble Duke had made a recommendation to the House in which he could not concur. He should not make any observations that he would not have made in the presence of the noble Duke,—[the Duke of *Wellington* had left the House]—who had been obliged to retire on account of another engagement. He had heard with great pain, though not with surprise, the statements and recommendation of the noble Duke; but grieved as he was to hear them, he did justice upon this, as he had done upon every other occasion, to the purity of the noble Duke's motives. Not only did he believe in the purity of the noble Duke's motives, but paid all deference to his judgment, the superiority of which could never be sufficiently extolled or appreciated by those who had held frequent intercourse with him. The noble Viscount and the noble Earl had different opinions on this subject, and it was rather strange that they were not yet in possession of the opinion of the noble Lord, the Secretary for Foreign Affairs. It might be fairly inferred, he thought, that the noble Lord was of the same opinion as the First Lord of the Admiralty. He should support the motion.

Lord *Ellenborough* said, he should certainly vote with the noble Earl who had spoken last, in consequence of the speech of the noble Earl at the head of the Admiralty. It was clear to him that the noble Earl's understanding of this treaty was incorrect, and that his instructions founded on that incorrect view, might lead us into a situation in which we should not be able to avoid a war. Therefore, he considered it to be the duty of their Lordships to call for the production of the papers, in order to ascertain what were our obligations in reference to Spain, and how far any misinterpretation of the treaty might run us into danger.

The Earl of *Harewood* said, his decision as to whether he should vote for the motion for the production of these papers was contingent upon this one circumstance. If any one of her Majesty's Government would get up in his place now, and state that those orders, or supposed orders, or interpretations of the treaty, as given by some of the noble Lords belonging to her Majesty's Government, would not only not be acted on, but that those orders would be withdrawn, in that case he should not vote for the motion. If, on the other hand, no such declaration was made, he should feel it his duty to vote for it.

Their Lordships divided:—Contents, 57; Not-Contents, 57.

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Motion lost.

CHARITABLE ESTATES ADMINISTRATION BILL.] Lord Portman moved the Order of the Day for the House going into Committee on the Charitable Estates Administration Bill.

Lord *Brougham* objected to the motion, as the bill was only a part of a great measure relating to charities generally, which had been introduced by him at an early period of the Session.

Lord *Portman* was willing to put off his motion, and to withdraw the bill, if their Lordships thought proper, till next Session; but, before doing so, he wished to have their Lordships' opinion on the subject. He could assure the noble and learned Lord, that he was doing a great wrong to the little charities of the country. The noble and learned Lord had brought in a bill on this subject, but no person had seen it, for the proof print of the bill was still in the hands of the noble and learned Lord, who had not yet returned it to the proper officer; and it was not fair, he contended, to lock up the administration of charitable estates in the hands of one noble and learned Lord, more particularly if that noble and learned Lord was unwilling to proceed with his measure. This was a case of a most particular nature, and in regard to which, some measure was absolutely necessary. There was a mass of small charities throughout the country, which could get no person to administer them; and why? Because, when the Municipal Corporations Bill was under consideration, the noble and learned Lord had contended for alterations being made in that bill, so as to admit of a general bill on the subject of charities being introduced, and the noble and learned Lord said, that that bill ought to be carried through the House along with the Corporations Bill. The Municipal Bill provided for the administration of those charities; but by the alterations which were made, the subject was left untouched, and no bill had been passed for administering the affairs of charities up to the present time. The object of the bill under consideration was, to provide for the proper administration of the affairs of small charities, and the noble and learned Lord objected to the bill because it was introduced by a layman; but he had followed the example of the noble and learned Lord, and had adopted the provisions of the noble and learned Lord's bill. He felt, that it was hazardous for him to undertake a measure of this description, but as the noble and learned Lord had not thought proper to proceed with his bill on the subject, he had felt it to be his duty to bring forward the present measure, which he would leave entirely in the hands of their Lordships.

Lord *Brougham* was not, till that moment, aware that his bill had not been printed and distributed; but the bill was, in fact, the very same bill which had last year been before their Lordships. He could assure the noble Baron, that he felt no jealousy whatever as to his interference with this particular subject, and he should have been delighted if any person possessed of adequate power and discretion, had taken up the question. He did not consider, however, that taking a bit out of a most important measure, in order to meet a particular case, was the proper way of proceeding on a subject of so much consequence as the administration of the different charities throughout the country. The bill which he had introduced, was framed on the report of the learned commissioners who had investigated the subject. It had been approved by them, and in fact almost the whole of its enactments, were prepared by them; and the only chance he had of carrying that measure, was by retaining in it the urgent part to which the bill of the noble Baron was directed. The present bill was very different from the first bill brought forward by the noble Baron, which went to make the guardians of the poor the trustees of those charities, and which contained a provision which empowered any two of those trustees to grant a receipt for any debts due to those charities. That bill containing such monstrous provisions the noble Lord had withdrawn; and this was the second bill which had been introduced, so that it was clear the matter had not undergone that full and mature consideration which the importance of the subject demanded. It was his intention to proceed with the bill which he had introduced, and his noble and learned Friend, who was not then in his place (Lord Denman, we understood), agreed with him, that it was not advisable to pass a partial measure on the subject. As to passing the bill at that advanced period of the Session, they might as soon expect to get a piece of the moon. If the noble Lord persisted in his motion, he reserved for himself the power of giving the bill all the resistance possible during its future stages.

The *Lord Chancellor* said, that the object of the bill before the House was to remedy a very great evil which existed in regard to those charities. By the Municipal Bill, all the charities of the country were deprived of their trustees, and the consequence was, that they had to apply, as a temporary expedient, to the Court of Chancery for the appointment of new trustees. Now, there were in the country, many charities which could not afford the expense of an application to the Court of Chancery, and the poor were in consequence deprived of that advantage which those charities were calculated to yield. This evil was very general; and it was absolutely necessary that some arrangement should be made to renew the trustees without the necessity of applying to the Court of Chancery. The only question was, whether it was advisable to apply the remedy proposed by the noble Baron; and if the bill of the noble Lord was likely to prevent the passing of a general measure on the subject, he would suggest to the noble Lord the propriety of withdrawing it, at least for the present.

Lord *Portman* said, that his great anxiety had been, not so much to pass the bill as to get the noble and learned Lord to declare, whether he intended to proceed with the general measure which had been introduced by the noble and learned Lord; and as he understood the noble and learned Lord to express his intention of proceeding with that measure, his object was accomplished, and he should bow to the suggestion of the noble and learned Lord on the Woolsack, and withdraw the bill which he had introduced.

Lord *Brougham* said, that if he had the assistance of the noble and learned Lord on the Woolsack, and of his noble and learned Friend who had left the House, he had no doubt of being able to carry his measure; and he was most anxious to proceed with as little delay as possible. He wished it, however, distinctly to be understood, that he was not to go on because of the proceeding of the noble Baron in reference to this subject, as it had always been his intention to proceed with the measure he had brought forward, and to proceed with it with as little delay as possible.

Lord Portman withdrew his motion.

HOUSE OF COMMONS,

Tuesday, July 10, 1838.

MINUTES.] Bill. Read a third time:—Vagrants Acts Amendment.

Petitions presented. By Lord FRANCIS EGERTON, from Manchester, Salford, Oldham, Birmingham, and other places, for an Alteration of the laws regulating the Sale of Beer.—By Captain GORDON, from the Shipowners and Shipmasters of the port of Aberdeen, and by Sir C. STYLE, from Scarborough, against the Bill for the regulation of Pilotage.

TITHES (IRELAND).] The Order of the day having been read for Committee on the Tithes (Ireland) Bill,

Mr. *O'Connell* said, that before the House should resolve itself into Committee upon this bill, he rose for the purpose of moving an instruction to the Committee, which he considered to be an indispensable preliminary, and without which he saw no chance whatever of the successful working of the bill. He would not for a moment delude the House by the supposition that this bill was calculated to work well: on the contrary, he thought, that it would increase the existing amount of dissatisfaction and disturbance in Ireland, unless they agreed to the resolution which he was about to propose, and which he should most certainly feel it to be his duty to press to a division. He felt, that the House must listen with natural reluctance to a renewed discussion upon Irish affairs, a lengthened discussion having not long since taken place upon this particular subject; and he (Mr. O'Connell) would gladly omit any fresh allusion to those topics, if he were not impressed with the deepest sense of their importance. It was for the House to take into consideration the present state of Ireland, to examine how far the proposed remedy was applicable, and to see whether in the attempt to amend a mischief they did not positively increase the evil. At the present moment the affairs of Ireland were pregnant with the utmost danger. It was true that for the last three or four years a system of conciliation had been carried on by the Government of that country; that the policy of that Government had been that of vigilance in the detection, united to firmness in the suppression, of crime, accompanied by a soothing and conciliatory spirit towards the mass of the people. For the first time in the lapse of centuries the people had become reconciled to the administration of an English Government. Great, however, as were the advantages of that novel system of policy, it had by no means cured the evil, the substantial evil—which consisted in real unmitigated oppression, and in the deep-rooted conviction of the people that they were suffering under downright injustice. So long as the fact existed that nine-tenths of the Irish population consisted of Roman Catholics and Presbyterians, it was idle to think of forming any scheme for reconciling them to pay for maintaining the religion of the other tenth. It was undoubtedly true, that the resistance to tithes had of late assumed more of a passive than an active character; but no man could dispute the fact, that the opinion of the people of Ireland on the subject of tithes still remained unchanged. He devoutly believed it to be unchangeable. When he last addressed the House upon this subject he had spoken of ten anti-tithe meetings which were advertised as about to take place within a few succeeding days. Since that period no fewer than thirteen of these meetings had taken place. At each of those meetings from 50,000 to 150,000 of the people had assembled, and recorded their immutable hostility to tithes. A striking circumstance at all these multitudinous assemblies was, that they were neither characterised by disturbance, nor by the slightest violation of the peace; and the expression of their determination not to pay tithes was only rendered the more emphatic by this total absence of tumult. The resistance to tithes might, therefore, be fairly assumed to be now as great as ever. Government proposed this measure as a soother, as calculated to diminish the existing mischief. It had intended to strike off thirty per cent. of this burden, which was dwindled down, however, by a vote of that House to twenty-five per cent. It had been said, forsooth, that this was not a question of pounds, shillings, and pence. But was it not made a question of pounds, shillings, and pence? A miserable contest had been carried on upon this wretched remaining five per cent, and a paltry party triumph had been gained—640,000*l.* of the tithe million remained unpaid, and arrears had accrued since that period. By their new system the landlords of Ireland were to be made tithe proctors. Was this a system calculated to promote peace and that tranquillity in Ireland? Did they think they were establishing friendly relations between the landlord and tenant by making the landlord sue his tenant for tithes? Why, it was self-evident that they would convert into hostility to the landlord, the odium which had been hitherto directed exclusively against the clergy. The odium would now be shared by both, or rather the burden of it would be borne by the landlord. He asked any man who knew Ireland whether that was a system calculated to produce tranquillity there? Whether, on the contrary, there could be any more fertile source of agrarian disturbances, of the most horrible crimes' with all their fearful consequences, including the punishment of the innocent for the guilty? Was the House prepared to inflict that mischief upon Ireland? He (Mr. O'Connell) would take the arrears as they stood; and he would ask of the House whether they should look for the payment of the arrear of 640,000*l.* Who were they that owed that arrear? Must not the answer be, that they were the most lenient and forbearing of the Protestant clergy in Ireland—men who preferred the peace of their neighbourhood to the chance—perhaps the certainty—of disturbing it by enforcing their claims—who chose the course of Christianlike meekness and forbearance in preference to violence and tumult? If there was any class of men who deserved in an especial manner the kind consideration of the House, it was this set of peacefully disposed Protestant clergy. It was not to be expected that these men should pay back that arrear without having recourse to those who were the original debtors; and, having been made the victims of their ow forbearance, to call upon them now for payment of this money was to make a continuation of that forbearance impossible. He could not conceive anything more mischievous, anything more likely to be productive of serious consequences, than the idea of applying for this 640,000*l.* to men, many of whom could ill afford to pay it. When this tithe million was first proposed, he had announced that they would never get it back, and he told them now that they would never recover it. Was not the House aware of what had happened to the noble Lord, the Member for North Lancashire, who had lent 60,000*l.* or 70,000*l.* to be distributed among several parishes? He had since tried every means to recover it, but found it impossible. To be sure, the sum of 12,000*l.* was recovered, but at an expense of 29,000*l.* Did they wish to make a similar experiment by way of conciliating Ireland? But in order to enforce legal proceedings, the assistance of a military force would, in almost every case, be necessary. Did any man dream of introducing horse, foot, and artillery into Ireland for this purpose? He implored the House to look calmly and dispassionately at the question; and if their object really were, to produce quiet in Ireland, and to make the burthen of tithes as lightly felt as possible, he asked them whether they should leave this festering sore—this national blister—this canker—preying upon the vitals of the country? Instead of conciliation, increased disturbance must result from any attempt to levy this 640,000*l.* If they persevered in the proposed system, with reference not only to that sum, but to the arrear which had since accrued, they compelled the parties to do all they could to recover every farthing of the money. It would be better to leave matters as they were, than, under the flimsy pretext of conciliation, to make it not only the interest but the duty of every tithe-owner to look for his arrears. They urged the tithe-owner, in fact, no longer to forbear. They might take this course if they pleased; but let them not remain for a moment under the delusion that they were establishing a system of conciliation in Ireland. They might talk as they would of the impropriety of allowing men to set the law at defiance; they might talk of submission to the constituted authorities, and of the necessity of enforcing the majesty of the law — all admirable phrases, truisms of the most perfect and undoubted excellence, but utterly inapplicable to any statesmanlike attempt at governing Ireland by the policy of conciliation. What did the people care for such phrases? The more they talked of abstract justice and abstract law, the more would the people recur to the abstract injustice of making one, and that the greater, portion of the inhabitants of a country pay for maintaining the religion of the remainder. When they came out with these fine phrases, the people of Ireland would say in reply, that they saw the church in England supported by the people—a church which was the church of the majority of the people; that the church of Scotland was paid by the people—a church which was the church of the overwhelming majority of the people; while in Ireland the church of the people had no connexion whatever with the state—and God forbid that it ever should — while the state establishment (of which he did not at all mean to speak disrespectfully) was the church of a miserable minority. Under these circumstances, what was it that he proposed? The House had drawn the line; tithes and tithe composition were now to disappear for ever. They were entering on a new plan, and he (Mr. O'Connell) proposed to enter with them; but he called on them in the first instance to blot out all the encumbrances which had embarrassed the former system. He called on the House to remit the 640,000*l.*, of which they ought never to have demanded payment; and with respect to the remainder of the arrears, he proposed that a committee should have the power of diminishing it at least to the extent of the diminished rent-charge. He proposed that they should strike off twenty-five per cent. Let there be a committee or commission to investigate how much was due to each of the clergy, and by whom. Wherever solvent persons were discovered, let them be obliged to pay their arrears, and let the arrears be remitted in those districts in which there were likely to be disturbances. In the meantime let the operation of the law be suspended. As to the residue, the arrears which had since accrued, he proposed to remit no more than twenty-five per cent. to any solvent person; but there should, at all events, be an inquiry as to the places in which the suing for these arrears would give rise to disturbances. The report of the commission might be completed by the first day of next Session. Two or three intelligent men would be sufficient to conduct the inquiry. By this means they would remove the irritating process of litigation, they would be enabled to ascertain with accuracy in what districts disturbances were likely to take place, and in what districts it was probable, that they would be unable to levy the tithes under the present system. By the first day of the next Session they would be enabled to devise proper means for recovering all the solvent arrears. If it were to be a new system, let it be altogether new. Let it not be a partial and piebald system, with so much of the old system as would tend to produce vexation, and so much of the new as would create embarrassment and confusion. He had trespassed at greater length upon their attention than he had originally intended; but he could not help conjuring the House to make this concession in a spirit of genuine conciliation. Let no man taunt him with desiring to take English money. It was true that he did; but, when they looked to the advantages which would result from the sacrifice, they would not hesitate to make it, if they were actuated by a sincere desire to win over the people of Ireland by conciliation. Notwithstanding all the veneration in which the Marquess of Normanby was held in Ireland—notwithstanding the perpetual counsels which the people received from the clergy, and their commands, where that was possible—not, as it were, to tarnish the administration of the noble Lord by offence or outrage—it should still be remembered, that as yet the people of Ireland had obtained no real measure of legislative relief. The Municipal Bill they had not yet passed. All that they had given them was a poor-law. He had seen it reported that the noble Lord at the head of her Majesty's Government had stated it in another place to be the great objection to the Poor-law that it would become a burthen on the landlords of Ireland. There never was a more fatal mistake. The real objection was, that the burthen was imposed upon the occupiers of the land, who must pay in every case one half of it. From placing the burthen on the shoulders of the landlord he should not be at all disposed to shrink. What he did shrink from was, placing it upon the occupying tenant; and he denounced it as another ingredient in the cup of Ireland's misery. It was also proposed under the new system of tithes to levy these arrears; and here was another source of discontent and disaffection. He knew that insurrection in Ireland would be put down. He should be sorry to think, that it should not be suppressed. No undisciplined force could resist the mighty army of this country; but since they talked of their wish to conciliate, he took them at their word. He called on them to do so, and to agree to their resolving themselves into a Committee with an express instruction to take this matter into consideration. He hoped that his plan was wide enough to embrace the opinions of hon. Gentlemen at every side of the House, and he should therefore move, "That it be an instruction to the Committee to provide for the means of discharging the arrears of tithes now due in Ireland."

The *Speaker* observed, that the motion appeared to him to be informal, inasmuch as it was, in point of fact, asking for a grant of public money.

Mr. *O'Connell* replied, that he did not want the House to make any grant of money. All that he wanted was a receipt for money which had been already granted. As there was an objection to his motion in point of form, he would give notice of his intention to move an address to her Majesty for the remission of the 640,000*l.*, and would now move, that it be an instruction to the Committee to make arrangements for the diminution or discharge of the arrears of tithes now due.

Lord *John Russell* was very doubtful as to the formality of the hon. and learned Gentleman's motion, and, even if it were carried, he did not think that it would obtain for him the object which he proposed. His right hon. Friend near him (the Chancellor of the Exchequer) had a proposition to make with regard to the arrears of tithes, and when that proposition was submitted to the House would be the most proper time to take the hon. and learned Gentleman's proposal into consideration.

Lord *Stanley* said, that if the hon. and learned Gentleman opposite pressed his motion to a division, and if it were consistent with the forms of the House, he should feel it his duty to support it. He wished to guard himself against more than expressing an opinion, in which he fully concurred with the hon. Gentleman, that the bill would fail in a beneficial result, even in a larger degree than was anticipated, if it did not involve some provision for the settlement of the arrears. The immediate object of the acts which had been already passed was, to promote the peace and tranquillity of Ireland, by substituting a payment to the clergy from the landlords, the majority of whom were Protestants, for a payment by the occupying tenants, who he was ready to admit were very little able to bear the burden, and were, besides, of a religion different from that of the Established Church. In his opinion the whole benefit to be derived from the bill must depend on the condition, that from the period when the bill shall have come into operation there shall be no more demands made by the Protestant clergy upon the Roman Catholic population. The bill, he repeated, would fail in its object if the House either allowed or compelled the clergy, in vindication of their rights, to proceed against the occupying tenants for the arrears now due. The question for the House to consider was a grave and serious one—namely, in what manner, doing justice to all parties and injustice to none, it was possible to provide for the payment of those arrears. His right hon. Friend opposite (the Chancellor of the Exchequer) had stated to the House the other day the outline of a plan for remitting to the clergy the arrears, if they would consent to remit to the people the whole of what was due to them. But it was not fair to the clergy, who had waited with exemplary patience for the fulfilment of the hopes which were held out to them of a final and satisfactory settlement of the question, and who had upon the faith of these representations forborne to put their claims in force; it was not fair to them to say, that the condition of remitting the arrears or debt due by them should be their remitting to the occupying tenants not only all the arrears due to them up to 1835, but also those which had since accrued to the present year. To exact such a condition was imposing upon the clergy terms grossly and manifestly unjust. His right hon. Friend (the Chancellor of the Exchequer) proposed to relieve the occupying tenant at a grievous expense to the clergy, and none to the landlords, and without any assistance from the state. The hon. and learned Member for Dublin proposed to relieve them and the clergy to a certain extent at an expense charged to the State alone. He (Lord Stanley) knew the difficulty of dealing with questions like the present in such a manner as not to give occasion for invidious observations or irritating discussion. This he was most anxious to avoid, but he must say, that there was one consideration which both his right hon. Friend and the hon. Member for Dublin should not leave out. There was this additional objection to both plans, that those who pertinaciously resisted the law would obtain a benefit which those who had complied with the law would be deprived of. He admitted the force of all the arguments against calling upon the occupying tenant for the payment of those arrears, which for a long time they had been taught to hope they would not be called upon to pay. He saw the importance of the case, and he thought that the State ought to make a sacrifice if the peace of Ireland was to be obtained by it. As an Irish landlord, he would say, that they had no right to call upon the State to bear their burdens. He would say, that although the Irish landlords might not have derived any pecuniary advantage directly in their own pockets, they had yet derived an advantage to some extent. In those districts where the opposition to tithes was greatest, and none were paid, the landlords received their rents better and more satisfactorily than before. That such was the fact was notorious. He said, then, that they had derived some advantage from the state in which the law had been left by the tithe agitation and the non-payment of tithes by the occupying tenant. Having derived this benefit, the Irish landlords had no right to call upon the clergy to make a large sacrifice upon their parts, nor upon the State to make a sacrifice of the public money, and contribute nothing themselves. He understood his right hon. Friend to say, that until he knew the amount of the arrears due and payable by the occupying tenant, he could not tell whether the 360,000*l.* remaining would be sufficient or not. The hon. and learned Member for Dublin proposed to make the landlords liable to a certain per centage of the arrears due by the tenants. [Mr. *O'Connell:* Due by themselves and all solvent tenants.] He was afraid the hon. and learned Gentleman's proposition would lead to a general declaration of insolvency throughout Ireland if insolvency were to be the exemption from the payment of the arrears. He thought that where the arrears were due from the landlords themselves, they ought to be paid without deduction. He hoped he understood his right hon. Friend to say, that the arrears should be paid partly by the landlord and partly by the State; that the landlords should pay a portion, say 20 per cent., of the arrears due to the clergy upon their estates, and, that in consideration of the sacrifice thus made by the clergy, a discharge be given to them by the state of the amount of arrears now due. Without some such provision, which it was the duty of the Government to propose, and of Parliament to agree to, with a view to the peace and conciliation of Ireland, the bill would fail to produce any beneficial results. His object in supporting the motion was, to express his opinion, that without these arrangements the measure would not succeed. It was most material, that after the bill came into operation, no levy should be made by the clergy upon the occupying tenants. In justice, the House could not deprive the clergy of this right, nor refuse to assist them in the exercise of it, unless they made with them some fair and reasonable compromise. He felt confident, that the clergy would not be found hard or unreasonable in the exaction of this compromise, and he hoped, that Parliament would do everything they could for the settlement of this painful and embarrassing question.

The *Chancellor of the Exchequer* agreed entirely with his noble Friend opposite (Lord Stanley), that the present measure would be defective, unless they made some provision for the payment of the arrears. He also agreed with his noble Friend, in thinking the question one of great difficulty and importance. Before he explained his plan, he wished to meet an objection made by his noble Friend, but which applied to his noble Friend's suggestion as well as to his own plan. Nothing could be more plausible than to say, that the House ought not to countenance a principle the effect of which conferred a reward upon those who had pertinaciously resisted the law. He felt strongly (none could feel it more) the inconvenience of calling upon the House to affirm by Act of Parliament a measure producing such a result. He must say, however, that every plan for the settlement of this question was open to the same objection, and they could only get rid of it, by rigidly enforcing all the arrears from all the parties. His noble Friend had come to a conclusion which had certainly surprised him very much. His noble Friend had stated, that the plan which he proposed, involved no sacrifice from the state. Why, it involved no less a sacrifice by the state than giving up the right to the recovery of a sum of 640,000*l.* That perhaps might not be considered any very great sacrifice, but to say, that there was none, was altogether a misapprehension. He was prepared at the proper time fully to explain the proposition which he had thrown out. At the risk of anticipation he would do so now. He wished, however, first to call the attention of the House to the principle of the present bill. That principle was this—that with respect to tithes, they ought to relieve the occupying tenant. From the owner of the land they ought to collect whatever Parliament should determine he ought to pay. He admitted, that there was a difficulty, amounting almost to an impossibility, to recover the tithes from the occupying tenant. This difficulty arose partly from his being of a different religion from the minister, partly from his poverty, the smallness of the sum, and various other causes. With respect to the owner of the land, however, the case was different. He was assumed to be a person of intelligence and education, of the same religion as the clergyman, and therefore identified with the Church establishment, so that in respect to him, there could be no difficulty about the collection, or the effectual service of legal process. Let them apply this principle in respect to the arrears due by the clergy. In considering the settlement of this question, were there any grounds of public expediency or public policy, to require from the occupying tenant the arrears due to the clergy? It was utterly impossible to collect these arrears from the occupying tenants, without endangering the peace and tranquillity of the country. There were two inquiries to be made—first, what was the amount of the proposed sacrifice? and secondly, what was the nature and extent of the compensation given for it? If it should turn out, that the sacrifice was not great, while the compensation was considerable, he did not think there ought to be much difficulty about the adjustment. They had heard it stated by several hon. Gentlemen at the other side, that the great bulk of the tithes was paid by the owners of the land, who were Protestants. From the owners of the land the clergy could and ought to recover the full amount due to them; but did any one believe, that if Parliament left to the clergy the full power which they now possessed, they could recover the arrears from the occupying tenants? No; past experience taught them the impossibility of such a thing. For this sacrifice of those arrears Government was willing to give them compensation by the remission of 940,000*l.*, while they would have in future to look for their payments to a new rent-charge upon the landlord. The first equivalent for the sacrifice was, in point of fact, the better security of the property created by the statute, and while the sacrifice was transitory the benefit was durable and permanent. He said, further, that there were cases in which, if the House acted with rigour, the clergy ought to be made to pay the whole amount of the advance, and get the money due to them from those who owed it. It was for the benefit of the clergy themselves, and the peace of Ireland, that the claims against the occupying tenant should not be pressed. There was a modification of his plan to which he saw no objection; he proposed the remission of 640,000*l.*, if the clergy consented to abandon the amount, not of the whole tithes, but of those due from the occupying tenant. The modification to which he alluded was, to allow the recovery of the quinquennial instalments under the Million Act, so far as they were due, from the owners of the first state of inheritance; and this, not for the benefit of the state, but as a further consideration to the clergy for the sacrifice of their arrears.

Sir *Robert Peel* observed, that this discussion related to arrears due to the Irish clergy, which might be considered under different heads. First, as to the arrears which were covered by the advance of 640,000*l.*; next as to the arrears which had occurred subsequently, and for which no provision had yet been made by Parliament. Singular as it might seem, he was disposed to give his support to the proposition made by the hon. and learned Member for Dublin. He had no hesitation in saying, that as far as the proposition referred to the 640,000*l.*, he entirely agreed with the hon. and learned Gentleman. He conceived it to be utterly impossible to exact from the clergy of Ireland that 640,000*l.*; because exacting it from them would give them a corresponding right to recover the arrears. He, fo the sake of peace, and to avert the ill consequences that might arise from an attempt to recover the arrears, was prepared to say, that any attempt now to recover these arrears would be fraught with injustice. They ought on that point to relieve the occupying tenants and the clergy: there could be no question about it. The clergy of Ireland saw successive Governments bring in bills for the remission of the 640,000*l.*, and the occupying tenants were placed under the impression that it would be remitted. Could it, then, be possible, after a delay of three or four years, to say to the clergy that they must proceed for the arrears? It would be absolutely impossible. An immense majority of that House thought that it was absolutely necessary for the treasurer to remit the claim of 640,000*l.*, and also to deprive the clergy of recovering the amount of arrears covered by the 640,000*l.* He must also say, that where the clergy had recovered the amount of the arrears, they ought to repay the amount they had obtained. He was prepared, then, to defend this course, not merely as a favour to the clergy, but as one of justice to the occupying tenants of Ireland. Whenever, then, the question was brought forward, he should be prepared to vote with the hon. and learned Gentleman for an absolute remission of the 640,000*l.* They then came to other arrears, which were not covered by the advance of 640,000*l.*, and the proposition of the right hon. Gentleman was to waive the 640,000*l.*, if the Irish clergy abandoned all claims on the occupying tenants, not only as to the arrears covered by the 640,000*l.*, but also all arrears that had occurred since. He thought the proposition a manifestly unjust one, and he for one would never give his consent to it. The Irish Tithe Bills brought in, in 1835 and 1836, by Governments of opposite political opinions agreed in this, that they remitted the 640,000*l.*, and deprived the clergy of the right to recover the arrears, and they made a provision as to the arrears which had subsequently occurred by applying to them the remainder of the million. Both bills agreed in giving 640,000*l.* for the former arrears, and 307,000*l.* for the arrears which had occurred in the intervening time. What was the proposition of the Chancellor of the Exchequer? Why, that, upon the remission of the 640,000*l.*, the whole of the arrears covered by that advance, as well as the whole of the arrears for the intervening period, should be remitted by the Irish clergy. What pretence was there for making a proposal that the whole burden should fall upon the clergy of Ireland? They had not been the cause of the failure of the bills proposed, for whomsoever the blame rested, they were not to blame. He was not about to censure the course which the noble Lord (Lord John Russell) had so manfully taken, a course which he thought the best that could be taken, looking at the difficulties with which this great question was surrounded in Ireland. He believed really and conscientiously that they had taken the best course for the general interest of the country and the peace of Ireland. But the clergy had not been the party to obstruct the settlement of this question, and why should they bear the whole penalty of the delay that had taken place? This would be a manifest injustice. It would be just that the clergyman who had received a part of the 640,000*l.* in lieu of his tithes should remit the arrears to the amount received, but to expect the clergyman who never received part of the advance to give up his arrears was gross injustice. The right hon. Gentleman, the Chancellor of the Exchequer had admitted, that, if his proposal were adopted there might be acts of inequality and injustice; but he thought, that the Legislature ought to take care not to commit crying acts of individual injustice. It was perfectly just to say, that with respect to those who had received part of the 640,000*l.* they should not repay that advance, nor yet recover the whole of the arrears; but those parties who had never received any pecuniary advance, who had been forbearing, who had not pressed hard upon the tithe-payer, and who had not yet recovered their tithes, to say to them, "You owe nothing to the treasury, and the tithe-payer owes you a great deal; you shall remit the whole of your arrears, but we shall not give you a farthing for the remission," was manifest injustice. It was impossible, that the House of Commons could sanction such a proposition. This 640,000*l.* had not been spread equally over the whole of the clergy of Ireland. The benefit of the 640,000*l.* was confined to a certain particular class. They might ask those parties to remit their arrears; but there was no pretence for saying, that those who had never received anything, and to whom a great deal was due, should not be paid their debts, because others had been paid already. Again, they offered, in 1835, the sum of 307,000*l.* to cover the arrears, and now not only were they going to take back that, but they were going to punish the parties who had not taken it. It was impossible for Parliament, which protected the right of all classes, to take a course which would involve the committal of such gross individual acts of injustice. Then the right hon. Gentleman the Chancellor of the Exchequer, with his ingenious way of conciliating the clergy of Ireland to the adoption of his plan, said, that they would not be making a great sacrifice, that they could not get much of the arrears that remained due, for that the moment they passed this bill, which transferred the obligation from the occupier to the landlord, they would throw such discredit on the old mode, that the occupying tenant would not pay the arrears. Why, would not this be a very good reason for indemnifying the parties? Would it not be a good reason for saying, that the motives of state necessity compelled them to pass a measure which involved existing claims, which deprived the parties of the means of recovering, and which, therefore, they must make good? But to compel a person, by the strong arm of power, to remit a debt that was due to him, involved a principle of such shameful injustice that he thought it impossible to consent to it. Those men, in the eye of the law, had a positive claim for the debts due to them, and they had a right to enforce that claim; but to step in by the aid of an Act of Parliament, and to throw such discredit on the old system, as to make it impossible to recover these claims, without, at the same time, making any compensation, was so monstrous, that he was sure, that nothing but the being accustomed to the injustice of the right hon. Gentleman's first proposition could have reconciled him to the enormity of the second. But, said the right hon. Gentleman, the clergy should consent to remit all these arrears, because they would have a better security for the payment of the rent-charge. What had the clergy given up the twenty-five per cent. for? Surely it was the hope, that they had a tolerably valid security for the payment by the landlord of the sums due to them. Why should the clergy be called upon, by the remission of an existing debt, to fortify their security for the payment of the seventy-five per cent? With respect to the course proposed to be taken for the remission of the 640,000*l.*, if he thought that the remission of that sum, or of double that sum, would secure peace to Ireland, would confirm the rights of the Irish clergy, would prevent agitation, and facilitate the regular payment of tithes, he was quite sure, that the British people were prepared to make any reasonable sacrifice for bringing about the cessation of agitation, the acquiescence in just demands, and the wholesome operation of the laws. But the language of the right hon. Gentleman made him fear future concession. The right hon. Gentleman complained now of tithe agitation, and of those parties who encouraged that agitation, but did not place themselves in the front of the danger. He must say, that after the example of those whose influence in Ireland was very great, and who had withheld their tithes for five or six years, professedly on religious principles, it was not to be expected that the mere readiness to pay off arrears would calm that agitation. The hon. and learned Gentleman opposite (Mr. Sheil) had so refused the payment of his tithes, and he must ask, if Gentlemen of his station and influence refused payment, what effect would such refusal produce on the ignorant? It was very well to throw the blame on the occupying tenants, and to complain of their meeting in large assemblies; but when they saw the hon. and learned Gentleman promoted to a civil office, the hon. and learned Gentleman and the Government must bear some share of the blame of tithe agitation. With respect to the question of thirty and twenty-five per cent., the hon. and learned Member for Dublin said, that it was a miserable question of pounds, shillings, and pence. Now, he thought, that a great principle was involved in it. He thought, that they had no right to make a greater pecuniary remission to the landlord than he was fairly entitled to. He knew it was impossible to follow out this principle fully, and that some individuals must be benefitted to a greater extent than they ought, and that others must fall short. But the reason why he required, that the remission should not exceed twenty-five per cent. was, that he thought twenty-five per cent. a full indemnity for the burthen that was placed on the landlord. He did not think, that the landlord had a right to expect a greater remission than was offered, as he thought the indemnity corresponded with the burthen. They were throwing upon the landlord the payment of tithe, and they were making him a liberal allowance on that account. There were many who thought the existing allowance of fifteen per cent. sufficient. He, however, thought, that as they were about to place, by a law, an obligation on the landlord to which by law he was not subject, the indemnity ought to be liberal. He was, therefore, willing to consent to the allowance of twenty-five per cent., but he could not consent to give thirty per cent., because he thought, that that would be an unjust bonus, and he thought, also, that it was too much, and that it, therefore, involved the question of the appropriation of church property to secular purposes, and the very worst of secular purposes, the benefit of the landlords of Ireland. He, therefore, would certainly not consent to any such reduction of the payment due on account of tithe, as it was one which would manifestly be for the peculiar benefit of Irish landlords, and one which the justice of the case did not require. It was on these grounds, and because it did not involve the principle of appropriation, that he consented that the reduction should be twenty-five per cent. But, although he was ready to consent to the reduction of twenty-five per ecnt. at the present period, he must remind the Houte and the noble Lord, that he was not to be bound, on any future occasion, by this admission. He was perfectly ready now, against the wishes of many of the Irish clergy, to consent to the reduction of twenty-five per cent., but he was not bound toconsent to that reduction hereafter in case the proposal was now rejected. He said nothing about the future: all he meant to say was, that his offer of reduction extended merely to the present period, and that offer was made in the hope of peace and of procuring a final settlement of this question. With respect to the important question of the existing arrears, he must say, that with his view of the injustice of the proposal of the Chancellor of the Exchequer it was impossible for him to consent to it. The effect of that proposal would be, to inflict a penalty on those who had obeyed the law. If they meant to administer equal justice, they ought to return the money that had been paid to those who paid it; but it was not only contrary to justice, but an invasion of justice, to make no repayment to the man that had obeyed the law, and to remit to him who had disobeyed the law to the whole amount of his obligations. At the same time he admitted, that if they allowed difficulties of this kind to interpose insuperable obstacles, they would never effect a settlement of the tithe question. He must contend, for the sake of the peace of Ireland and the just rights of the clergy, that in any arrangement for the remission of the arrears due to the Irish clergy, independent of those covered by the 640,000*l*., it was not the clergy of Ireland, but the public, who ought to bear the chief part of the expense. Whether they should abandon all the arrears he was not prepared to say. The hon. and learned Member for Dublin proposed, that the clergy should abandon all claims to existing arrears upon receiving seventy-five per cent. upon them. If the hon. and learned Gentleman would guarantee seventy-five per cent. upon the existing arrears due to the clergy, he would venture on behalf of the clergy to accept the proposal; and if the hon. and learned

Member for Dublin was empowered to make that proposal, and had the means of performing it, he should feel very much disposed to agree to it. But he could not consent to impose on the clergy the whole of the pecuniary penalty on account of those arrears. His noble Friend (Lord Stanley) proposed, that part should be borne by the landlords. With the utmost respect for the opinions of his noble Friend, he doubted the justice of throwing upon the landlord part of the payment due on account of arrears. As far as the gentlemen of Ireland were concerned, upon whom this burden was thrown, he would not remit one shilling. He would recommend, that they should be all brought before the Court of Exchequer and compelled to pay. He was perfectly convinced that the Irish landlords, who had felt the inconvenience of encouraging agitation to resist a due legal demand would not give much trouble, if the clergy civilly enforced their demand. And as to remitting one shilling, nothing, in his opinion, could be more fatal. They had, therefore, to deal only with the occupying tenant. If the Treasury would advance to the clergy, out of the public funds, seventy-five per cent. upon the amount of their arrears and if they would be content to recover fifty per cent. from the tithe payer, he would consent to such an arrangement. The only evil attending it appeared to him to be the necessity of recovering it from the occupying tenants. But upon the whole he decidedly objected to making the clergy solely responsible for the amount of the arrears. He doubted the justice of imposing any part of the liability upon the landlords. And if he were sure that the bonus of twenty-five per cent. would insure the peaceable settlement of this question, he doubted whether it would not be the best course to meet the difficulties of the case.

Mr. *Sheil* said, that the right hon. Baronet had, in the course of his speech, adverted to him in rather a pointed manner. He should not be provoked in consequence of this, more than to suggest to the right hon. Baronet himself, that perhaps some appointments had been made, when he was in power, of Gentlemen as distinguished for the vehemence of their partisanship, at least, as he was, not perhaps upon the question of the Church, but upon others quite as exciting in Ireland. But he would not, by pursuing this subject, interfere with the just and wholesome spirit that appeared to prevail. It appeared to him to be agreed upon by all sides, in the first place, that the sum advanced to the clergy should be remitted to them, and that, to the extent of that remission, a remission by the clergy should be granted. The next point for consideration was, whether the surplus of the sum which had been originally granted for the pacification of Ireland, should be applied to the purpose for which it had been originally intended? The right hon. Member for Launceston (Sir H. Hardinge), proposed, in 1835, that the surplus should be appropriated to the payment of all arrears, and when the Whigs came into office they adopted the proposition, not of remitting what had been advanced, but of giving up the surplus of the million, amounting to 307,000*l.* to the settlement of arrears. Thus were the Whigs and Conservatives agreed upon these two most important points, namely, the remission of the money that had been advanced and the further grant of 307,000*l.* He could not conceive why the Whig Government should recede from that point. No name had been suggested; not a single individual connected with the Government had ventured to state any reason for the difference in the course taken in 1835, and that proposed to be taken now. He thought he had made out a case, founded on the conduct of the Whig and Conservative Governments, for the grant of the remainder of the million; but as to the liquidation of the arrears that had accrued beyond this, he was not insensible to the difficulty of inducing English Members to agree to a further grant. He thought, that when they were applying this balance to the liquidation of arrears, they ought to distinguish between the various classes of arrears. He was of opinion, that the landlord who had received his rent, and with it the tithe, ought to be allowed no remission, not a single farthing. Supposing he let his land at 40*s.* the acre, and that 3*s.* were to be paid to the parson, and he received the 40*s.*, only 37*s.* of it belonged to him, and he was bound to pay the balance to the clergyman. He thought this was but common justice, and he was not liable to the imputation which the right hon. Baronet had insinuated against him without the slightest foundation, namely, that he had refused to pay his tithes. He had been unable to recover his tithe, as was the case with other proprietors greater than himself, and in support of this he might refer to the statement of the noble Lord opposite (Lord Stanley), who was a landlord in Tipperary, and who had made considerable abatements to his tenants. Every body knew, that there was not a better landlord than the noble Lord. He would not be so unjust as to withhold his testimony to the high merit of the noble Lord on that point. The noble Lord had stated, that he had made an abatement to his tenants, and that he had fixed the rent with reference to tithes, at a certain sum; and that he had great difficulty in enforcing payment. But others had not the same means of enforcing payment as the noble Lord, because the noble Lord gave a beneficial interest to his tenants, who were also tenants at will. He had, therefore, the power of removing them, and of course he had the power of obtaining the balance due to him for tithe, whilst others had not that power. But what was the condition of other landlords? A noble Earl in another place (Earl Roden), had given a description of the condition of a Protestant gentleman, one of the olden time, with an income nominally of 5,000*l.* a-year, who, however, never got more than 700*l.* a-year for his support. The Earl of Roden had declared, that many men of this class would be crushed by the operation of the poor-law. If the poor-law would crush such men, how much more would the compelling them to pay tithes which they had not obtained, crush them? Suppose land to be let at 20*s.* the acre, and supposing, and he spoke from experience, that the tithe was 3*s.*, the tenant paid 17*s.* to the landlord, but refused to pay the tithes, and the landlord, who had to pay the 3*s.* to the clergyman, would in fact receive only 14*s.* the acre for his land. This was a statement of facts, and every Gentleman who belonged to that part of Ireland (Tipperary) could corroborate this statement. There were three classes of persons whom the House ought to consider. There was the landlord, who received his tithes; there was the proprietor of the fee-simple in possession of the fee-simple. Let them pay their tithes; it was but fair, because they received it; but the landlords who, in point of law were liable, who *de jure* were liable, but who *de facto* had not received their tithes, were entitled to the indulgence of the House. Let them remember the state of the south of Ireland; let them recollect the meetings that had taken place. He thought he had made out a case for the landlords of Ireland which that House ought to take into account. He was throwing overboard those who had got their tithes—he was throwing aside those who had got possession of the land; but he thought the House ought to take into account those landlords who were liable for tithes, and who had not received one farthing of them. It might be said, let those landlords sue their tenants, and compel them to pay. But he would ask, would not the landlords find it hard to recover these tithes which the state found it so impracticable to obtain with the aid of the police, the military, and all the machinery which the Government could bring to bear upon the recusants? Had not the Government said, that they found it almost impossible to recover the arrears of the million, and if they could not, how could the landlords recover them, surrounded as they were by an excited and hostile peasantry? It was untrue—he begged pardon for using so strong a phrase—it was a mistake to say, that he had not paid his tithes. He had paid a large portion on the simple application of the clergyman to him, and he had in his possession a letter from a clergyman in which he returned him (Mr. Sheil) his thanks for asking him for his account in order that he might discharge it. He was, in fact, willing to pay every farthing of tithes incurred by himself, but he objected to be made responsible for those of his tenants who refused to pay him. But enough about himself—enough of individual cases. What he wished to impress upon the House was this—if they were to have the balance of the million applied to the extinction of the arrears, let them not confine it to the occupying tenant, but grant a portion of it to the landlords who were in the predicament to which he had alluded.

Mr. *Hume* said, that in his opinion the people of England were about to be defrauded of a large sum in order to support an Establishment which ought to have been reduced long ago, but, at the same time, Ireland and England were in such a situation that every friend of peace must desire to see an end put to agitation. Did the right hon. Baronet, the Member for Tamworth, mean to say, that the sacrifice of 307,000*l.* would restore peace to Ireland? He begged to remind the House of what had passed a few days ago. His opinion was, that for a while the money might put down agitation, but in a short time agitation would arise again. In his opinion, the interests of England were about to be betrayed. He saw no reason why they should remit arrears of tithe to the amount of 640,000*l.*, with the additional sum of 307,000*l.*, unless upon the conditions which were pointed out on the Ministerial side of the House, when they succeeded in 1835 in ousting the Government. Let the Church be reduced, let the reforms that were then pointed out be adopted, and let the surplus arising, after the purposes of the Church should have been provided for, be applied to the repayment of the million, and he should be willing to consent to it, but beyond that he did not think, that the House of Commons ought to go, and he doubted much whether the people of England would sanction the giving up of a million of money to the landlords of Ireland. The Church of Ireland was rotten at the core —it was an incubus, which ought not and could not maintain its existence in spite of the feelings of the people. He could promise the right. hon. Baronet opposite, that all his expectations of peace would be disappointed unless he agreed to the appropriation clause and the abolition of sinecures in the Church. Until this was done he would never agree to give one shilling of public money to the clergy of Ireland.

Mr. Sergeant *Jackson* said, that there was not a more laborious and conscientious body of men than the clergy of Ireland. He denied, also, that they were overpaid; their incomes did not average more than 250*l.* a year. He took the liberty of saying a few words in explanation of what appeared to him to be the meaning of the right hon. Baronet the Member for Tamworth, in reference to the hon. and learned Member for Tipperary. In touching upon this point he must frankly bear testimony to the gentlemanly deportment which invariably distinguished the part which the hon. and learned Gentleman took in their discussions. The hon. and learned Gentleman never allowed his political feelings to carry him out of the strict line of straightforward and gentlemanly dealing. As the observation struck him, however, the right hon. Baronet had not objected to the hon. and learned Member for Tipperary, on account of his being a partisan; but had complained of her Majesty's government that they had promoted parties who had been engaged not only in the violation of the law themselves, but in encouraging others to violate it. The hon. and learned Member fell under this description, for he surely could not forget the speeches which he had made in Tipperary and elsewhere invoking resistance to the claims of the Church, and calling for its entire abolition. It had been declared by the hon. and learned Member for Dublin that Ireland never was in such a state of imminent danger as at the present moment—that she was like a charged volcano ready to burst forth at any moment. And was this the state to which Ireland was reduced in spite of all the kind and healing measures, all the popular proceedings, of the new Government of that country? He feared, indeed, that the hon. and learned Member for Dublin spoke truly, when he said, that Ireland was in a bad state. But why was it so? It was because the Government had not taken the proper and obvious means to enforce obedience and respect to the law; on the contrary, they had not only winked at repeated violations of it, but had actually from time to time promoted the very men who had been guilty of them. He knew of two parties who had been foremost in resisting the law in the matter of tithes, and who had subsequently been promoted to offices in the Exchequer Court. He could assure the House, that in consequence of such proceedings as these it was a received opinion in Ireland that the Government of the country was merging into the hands of the hon. and learned member for Dublin, that at his bidding the magistracy was cleared out, and the police made use of, not as the legitimate means of protecting the peace of the country, but as a ready source of patronage in the hands of the hon. and learned Gentleman.

Lord *John Russell* said, the first proposition made by the hon. and learned Member for Dublin was, that some arrangement should be made respecting the arrears due upon the advance made on account of the tithe properties, in order to their total discharge. Another question had since then been started respecting the portion of the million which had been actually advanced to the tithe-owners, and not repaid. Now, upon this subject he must say, that, considering the time which had elapsed since the advances had been made, and that these advances were made on account of tithes due as far back as the year 1831, he did not think, that it would be either reasonable or expedient to insist in future upon the payment of the instalments. To do so would not only embarrass the clergy but inflict a hardship upon the occupiers. The hon. Member had made a proposition to which so much opposition had been shown, that he (Lord J. Russell) thought it better to go back to the proposition which had been made by Government, and introduce a clause for the total remission of the instalments due, whether from the occupiers or from those who held for the tithe owners. But the question was very different with regard to the arrears since incurred. He quite concurred in the opinion, that if by the advance of a small sum of money, it was likely they would put a satisfactory termination to this very harassing question, it might be well to pay the money. But the question even then became one of amount. On this point, the right hon. Baronet, the Member for Tamworth, seemed to consider, that the remainder of the million advanced in 1835, would not be sufficient; that is, if they were now to give up the remainder of the million, and forgive the arrears due on account of the 640,000*l.* already paid, the present difficulties of the case would not be met. Nor had he yet heard from any hon. Member, any definite sum proposed which was sufficient for the object in view. The only statement which he recollected to have heard made tending to this point, was by the hon. Member for Tipperary, who stated the arrears due upon tithes to be about two millions sterling. Under these circumstances, and with no better information on the subject, he owned, that on being called upon for an advance of money, he did not feel disposed to acquiesce in it. Supposing, that the arrears due were two millions, then, if only 75 per cent. were paid, a million and a-half of money would be required. But even supposing they were to make such an advance of public money, would it, in the opinion of the House, lead to a final settlement of the question respecting the Church of Ireland? On the contrary, the hon. and learned Member for Dublin asserted, that the question now was, and he was supported in this view by the resolutions passed at the public meetings held in Ireland—whether the Church of Ireland should remain in existence at all, or whether its revenues should not be appropriated to other and far different purposes. Therefore, when the hon. Gentleman called for a sum of money in order to procure a settlement of this question, he, at the same time, told them, that it would not lead to a settlement at all; but, on the contrary, that the money would be given to those who had already violated the law, and were determined still to violate it. If, under these circumstances, the House were to acquiesce in such a grant, they would not have the consolation that they were making such a sacrifice with a likelihood of ensuring the future peace of the country. He came now to a third question for consideration, namely, whether such a grant would tend to the future good working of the present bill. In this point of view, as well as in the two which he had just stated, he did not consider it expedient to adopt this proposition. The hon. and learned Member for Tipperary had stated, with great appearance of reason, that considerable hardship was suffered by landlords who became subject to payments on account of tithes, which they were unable to recover from their tenants. But that was exactly the hardship which would still be liable to occur under the bill which they now proposed to pass; and he believed, that if the proposed advance were agreed to, the landlord would have to pay the 75 per cent. under this clause, which he could not, for some considerable time, be able to recover from his tenant. But he thought, that the landlord should look to his tenant for the future for the reimbursement of the rent-charge which he was called upon to pay. Some amicable arrangement might eventually be expected between landlords and tenants which would prevent the former from being losers in the end. But if the House were to say, wherever payment has not been made, we will advance a further sum in order to meet it, this would be a direct inducement to landlords to say, "We will not harass our tenants for the payments, because their not paying them will be a sufficient ground for us to make out a case of hardship which will ensure us the payment of any sums required for the purpose." On all these grounds, he thought, that it would not be advisable to make any further advance from the state towards the settlement of this question. At the same time, however, he thought it would be hard to call on the landlords for the payment of arrears already due. He should, therefore, advise the entire remission of the 640,000*l.* already advanced; but should oppose the proposition of the hon. and learned Member for Dublin.

Mr. *Lucas* had never heard a discussion with more pleasure, and he had no doubt that the debate of the three last hours would do more to the settlement of the Irish tithe question than all parties had been able to effect in the last four years. He hoped there was very little difference between the two parties composing the House on this question; at least, it appeared to him clear, that no hon. Gentleman desired to recur to the clergyman for the collection of the money advanced to him. His belief was, they would not be able to recur to that petty warfare between the clergy and the occupier. It would be utterly impossible for any government to carry out any bill with such a blot in it as a proposition for recurring to the occupiers of the soil for the recovery of tithes. If a recurrence were had to the occupiers of Ireland, the great difficulty would be with respect to a final adjustment of this measure. The noble Lord, the Member for North Lancashire had said, that it was the duty of the State, for the purpose of procuring peace by an adjustment of this question, to make some concession; that the clergy should, on their part, make some sacrifice, and that a sacrifice should also be made by the landlords. In this opinion he fully concurred, and as far as he was acquainted with the clergy and landlords of Ireland, he was sure they would be satisfied with any reasonable arrangement which held out a prospect of a successful and satisfactory adjustment of the question. The hon. and learned Gentleman, the Member for Dublin, had not, in the observations which he had addressed to the House, stated any definite plan. As a sacrifice had been mentioned, he would venture to assert, that there would be no sacrifice—there would be no absolute loss incurred. It was merely a loan, and the thing was, to take care that there should be sufficient security for its repayment. The question of difficulty was not so much as to whether the amount should be moderate or otherwise, but as to the chance of recovering, and whether it was necessary, under the present Bill, to recur to the occupiers of the land. Surely, if the rent-charge was a security for the clergy, it would be equally so for the Government. One observation had fallen from the noble Lord, the Member for North Lancashire, which had not been characterised by his usual sagacity, namely, that the collection of rent had been benefited by the non-payment of the tithe. This was not the case; for though there had been an improved payment of rent, it arose out of the improved condition of the country and the increased communication between England and Ireland.

Sir *R. Peel*: The importance of the subject is my only excuse for trespassing again on the indulgence of the House. I do not despair, that some settlement of this question, consistent with justice, may be arrived at; and I beg to submit to the consideration of the Committee, a proposal offered with that view, and the main grounds of which I shall now state. In the first place, as you can do nothing without a commission, let one be appointed. It is impossible, unless you mean to act blindly, that you should proceed in this case without intrusting to some such body the necessary powers for carrying the plan, which I mean to submit, into operation. Do not guarantee to pay the amount of the arrears, but place at the disposal of this commission 307,000*l.*, I should rather say half a million. Ascertain, then, the total amount of the arrears of the occupying tenants, and determine what proportion the defined sum which you place at the disposal of the commission, bears to the whole amount of the arrears. Supposing the sum fixed upon for disposal by the commission to be 307,000*l.*, and the whole amount of arrears to be 640,000*l.*, of course you can only meet fifty per cent. of what is now due. Then introduce an optional principle into the plan—offer to purchase the arrears by a tender of fifty per cent, the Government standing in the position of the tithe-owner in respect to the arrears. Give the parties two months, or a certain definite period, to decide. In my opinion, a great number will be found ready to sink their right to arrears in consideration of the immediate payment of the sum which you offer. The State will then be in possession of the existing right of the tithe-owner to the arrears. You will thus be enabled to look at the particular circumstances of each place, and to see where it is right to enforce the law, and where it would be more expedient to avoid its enforcement. Let you, the State, be the party to enforce to the utmost the claim of the tithe-owner, and to make such arrangements as that you can say to the landlord—"There are 100*l.* of arrears due to me by your tenants; let a portion of this be paid, and we shall remit the remainder." This plan would do no injustice to the clergyman, because he is to remain in possession of his remedy for the recovery of his tithe, in case he refuses the offer made him by the commission. I venture to say in nine cases out of ten he will accept your offer. In the few cases in which he shall decline, there remains the objection, that the tithe arrears are to be recovered by the clergyman from the occupying tenant; but how infinitely smaller will that proportion be than when you leave the clergyman altogether to the enforcement of his own rights, without any interference on the part of the Government. By this course you introduce an optional principle; you place yourselves in the position of the clergyman; where the circumstances of the opposition given by the occupying tenant are such, that you do not think it right to enforce the claim to arrears, you can abstain from doing so; but where, on the contrary, the tenant is solvent and refractory, and you seek to make a public example of enforcing the law, then you have the means of compelling payment. But, above all, do not bring into collision the clergy and the occupying tenants. Do not levy for arrears extending over an indefinite period. Some allowance should be made for bad debts and other circumstances, and, therefore, I think you should limit the arrears to those which have occurred within two years. See what an advance we have made by this preliminary discussion. All have agreed, that the sum of 640,000*l.* must be remitted, and I cannot help thinking, that if we address ourselves with earnestness to the remainder of the question, we shall be enabled to devise some plan by which the offer of a defined sum may be combined with an optional principle as to the enforcement of claims for arrears.

Mr. *O'Connell* thought there was a great deal of truth in what had fallen from the right hon. Gentleman, and that his proposal might form an admirable basis for arrangement. When on a former occasion, the million was advanced, it was found, that 640,000*l.* sufficed; which proved, that the arrears had been greatly exaggerated, and he believed, that to be the case now. He entertained a sincere hope, that the 307,000*l.* would be enough to defray them; and he was happy to see the feeling which seemed to pervade the House for an amicable settlement of the question; with the exception, indeed, of a little anger on the part of the learned Sergeant, the Member for Bandon (Mr. Sergeant Jackson). In cases where the landlord had received tithes from the tenantry and not paid to the clergy, undoubtedly, punishment and not encouragement, should follow. But he believed such cases to be very rare. He had never heard of one. It had been rightly said of him (Mr. O'Connell) that he did not expect this measure would settle the question of tithes as regarded time to come. He should have acted with great injustice insincerity, and criminality if he had said any such thing, for he did not feel it. He had no objection, however, to give the measure every chance of success; but though, for his own part, he had no hope of it, he would aid them in the trial. The hon. Member for Bandon had alluded to him, and said, that the police force were under his control. So far from that being the case he had not made a single nomination to that force in any instance. With regard to the spread of Ribbonism in Ireland, it was completely strangled. It did exist to a considerable extent in the vicinity of Dublin, but had been suppressed more by the exertions of the new police force than anything else. He now came again to the spirit in which this discussion had taken place, and he hoped, that enough had been done to induce the Government to pause and consider whether they might not adopt some plan for getting rid of the arrears, for if they attempted to enforce them they would do anything but conciliate. He trusted they would consider the proposals thrown out on both sides. It might be a sacrifice to be made by England, but it was an arrangement which would tend to a salutary result, and he trusted the House would consider it fully in committee.

Lord *Stanley* begged to say a word with respect to the amount to be required. He understood his right hon. Friend did not intend to enter into the arrangement any portion of the tithe composition at present leviable from the landlord. He differed, however, from the hon. Member for Kilkenny and the hon. and learned Member for Tipperary in thinking, that there were no circumstances, under which the landlords of Ireland were entitled to any indulgence. Because in no case could they have become liable for the tithe composition without entering into a new arrangement with their tenants. The landlord let the land tithe free to the tenant, and the hon. and learned Gentleman complained, that landlords were not able to make a corresponding increase on their rents. He could not consider very deeply the case of persons who had charged more for their land than their tenants were able to pay. He meant to apply himself merely to the arrears of the last two years. Now how was it possible, that the amount of these arrears could come near what was stated by the hon. Member for Kilkenny? Why, the amount of the tithes altogether was not above 500,000*l.*, and it was notorious, that considerably above 100,000*l.* of that sum was payable by the landlords. In his opinion 307,000*l.* would be a very large amount; but it was clear, that the amount paid even by the occupying tenants was 50 or 75 per cent. He hoped the hon. and learned Member would see the propriety of not pressing his instructions to a division.

Mr. *O'Connell* had much pleasure in agreeing to the suggestions of the noble Lord.

The *Chancellor of the Exchequer* hoped the House would treat the matter as a grant of public money. One thing he would object to was, the Government undertaking to levy the tithes from the occupying tenant. To that proposition he had very great objections. He thought it was also worthy of consideration whether the House in its generosity would relieve the landlords from that liability which they were under, having partaken of the loan. The question, though it appeared to have the concurrence of both sides of the House, was well worthy of grave deliberation. As to the 640,000*l.*, it should be recollected, that there was a portion of it for which not the occupier of land, but the owners of the tithes were liable.

Colonel *Perceval* was happy that an arrangement was made likely to be entered into, and would throw no obstacle in the way. He would, however, reserve to himself the right of hereafter giving deplorable proof in contradiction of the statement of the hon. and learned Member for Dublin. He should feel it his duty to call the attention of the House to the distracted state of Ireland.

Lord *J. Russell* agreed in the proposition made by the right hon. Baronet, but the matter required to be gravely considered. He would give the subject his best consideration, and hoped to be able to propose something to the House which would prove satisfactory. As to what had fallen from the hon. and learned Member for Dublin, with respect to the loss which would accrue to the revenue, he hoped the hon. and learned Gentleman would in consideration thereof, do his best in any future debates which might take place on the question of tithes to render the proposed adjustment a satisfactory one.

Mr. *O'Connell* withdrew his motion.

The House went into a committee *pro forma*, and resumed. Committee to sit again.

Cape of Good Hope.] Mr. *W. E. Gladstone* rose to call the attention of the House to a petition from the inhabitants of Albany, in the colony of the Cape of Good Hope, presented by him on the 15th of June last. That settlement had been founded as a frontier post, for the protection of our colony against occasional predatory incursions of the Caffre tribes, previously bordering on the inlands of our ancient settlements. The tract of country inhabited by these advanced colonists had received additions from time to time and was denominated the ceded territory. It was peopled by British subjects of an honest and industrious character, who conveyed thither their skill and capital during the Government of Lord Charles Somerset, and they remained there on the faith of receiving protection and support from the British Government. The colonists complained that faith had not been kept with them, and made various representations of the losses they sustained from being immediately in contact with a barbarous enemy. These representations had been neglected by the Government at home, and the interests of the colonists had been sacrificed, so much so that the ceded territory had been entirely given up to the Caffres, who now mingled with the farmers, to the great prejudice and injury of the quiet and peaceable subjects of Great Britain. Feuds and contests were of frequent occurrence, sometimes attended by bloodshed and consequences of the most lamentable character. The feeling of insecurity thus generated among the colonists caused many of them, and particularly the Dutch boors, to emigrate. The resources of the colony were thus left without employment, and great part of the land remained uncultivated. Agricultural produce had greatly risen in price, and, as regarded the great staple of corn and meal, to the extent of 300 per cent. Fatal collisions with the natives constantly occurred, and in 1837 from this cause the colonists sustained a loss of twenty-two of their own number, besides 384 horses and 2,800 head of cattle. The Dutch boors, disheartened by their misfortunes, withdrew from the colony into the desert, and placed themselves beyond the pale of society. Such was the precarious and unsafe position of the eastern portion of our South African territories, the evils attending which it was the bounden duty of Parliament to remove. He should, therefore, move an address to her Majesty praying her Majesty to appoint a commission of inquiry to investigate on the spot the past and present state of the relations of our colonists on the eastern part of the Cape of Good Hope with the Caffre tribes, together with the best means of preventing a recurrence of the recent emigration of the population beyond the frontier.

Sir *George Grey* said, the case before them had already been sufficiently gone into by means of the inquiry instituted, and the documents submitted in consequence of the inquiry to the consideration of the House. It was a lamentable fact that the state of this part of the colony could hardly be worse than it notoriously had been for some years past, owing in a great degree to the aggression of British subjects upon the aboriginal inhabitants, and their endeavours to extend their territory in this quarter for selfish and interested purposes. The pretext for these enlargements of territory from year to year had been, the presumed necessity of increasing the security and safety of the colonists, by placing an intermediate territory between them and the Caffre tribes. The result was aggression on the part of the colonists often causeless and unprovoked, and, on the part of the aborigines, irruption and massacre. Bloodshed had been the feature of this attempt at acquiring that which the aggressors had no right to, and it was not till within the last two years that measures could be taken by the colonial government there, with a chance of success, to put a stop to this sanguinary contest. Having said thus much, he might also confess he could not see, that any advantage could be derived from instituting a fresh inquiry into the causes of these transactions, so disgraceful to the British name, and prejudicial to British interests. A full investigation had already taken place, the report was before the House, and the colonial government had taken steps which encouraged Lord Glenelg to hope, that there must be a speedy end put to a state of things so much to be regretted. Where, then, was the necessity for the Government to incur heavy expense by consenting to a fresh commission of inquiry? For his part, he must express the most perfect confidence that no measure in the colony would be left untried to carry into effect the recommendation of the colonial government for establishing a system of broad policy in this colony which might prevent a recurrence of the evils which had taken place by a departure from such a line of policy hitherto. General Napier had been sent out to this portion of our territories, with full instructions and ample powers to restore the affairs of the colony to a wholesome condition. He trusted he had said enough to convince the House this was not an occasion upon which the British Parliament could be induced to sanction, under any pretext, the application of persons who had placed themselves in trouble and peril by means of their aggressions. The charge against the Government, that it had surrendered the track called the ceded territory to the Caffres, was a charge which, though true, redounded to the credit of the colonial government, which had insisted upon the relinquishment of a territory acquired by arms and unauthorised hostilities. The prompt cession of the ceded territory was calculated to show that, whatever had been the conduct of individuals, its subjects, the Government of Great Britain would be just when appealed to, and respect the rights of property, fully conscious that by so doing it must inspire a confidence as to its future conduct in the minds of the brave though barbarous people who had been encroached upon; and also that the cession must add to the security and inviolability of the property which had been fairly acquired by the colonists at this part of our settlement at the Cape of Good Hope. He must, on the grounds he had stated, oppose the motion.

The House divided. The numbers were—Ayes 32: Noes 41; Majority 9.

List of the AYES.

Bagge, W.
Barrington, Viscount
Bateson, Sir R.
Blackstone, W. S.
Bolling, W.
Clive, hon. R. H.
Darby, G.
Douglas, Sir C. E.
Dungannon, Lord
Egerton, W. T.
Egerton, Lord F.
Ellis, J.
Estcourt, T.
Fitzroy, H.
Gibson, T.
Grimsditch, T.
Hughes, W. B.
James, Sir W. C.
Knight, H. G.
Lascelles, hon. W.
Lefroy, right hon T.
Litton, E.
Mathew, G. B.
Packe, C. W.
Packington, J. S.
Palmer, R.
Palmer, G.
Powerscourt, Ld. Vis.
Richards, R.
Scarlett, hon. J. Y.
Thompson, Alderman
Wood, T.

TELLERS
Gladstone, W. E.
Praed, W. N.

List of the NOES.

Ainsworth, P.
Alston, R.
Barnard, E. G.
Blackett, C.
Brocklehurst, J.
Brotherton, J.
Bruges, W. H. L.
Campbell, Sir G.
Crawley, S.
Duke, Sir J.
Elliot, hon. J. E.
Fergusson, Sir R.
Grey, Sir C.
Hawes, B.
Hobhouse, Sir J.
Howard, P. H.
Hume, J.
Hurt, F.
Lushington, C.
Lynch, A. H.
Paget, F.
Palmerston, Lord
Parker, J.
Pease, J.
Pechell, Captain
Phillips, M.
Rice, E. R
Rundle, J.
Salwey, Colonel
Scholefield, J.
Sinclair, Sir G.
Slaney, R. A.
Smith, B.
Style, Sir C.
Somerville, Sir W.
Tollemache, F.
Turner, W.
Vigors, N. A.
Warburton, H.
Williams, W.
Wood, Sir M.

TELLERS.
Grey, Sir G.
Stewart, R.

SALE OF BEER.] Lord *F. Egerton* rose to call the attention of the House to the state of the law affecting the Sale of Beer. Various petitions had been presented on the subject; especially one from upwards of 6,000 inhabitants of Manchester and Salford, among whom were nearly fifty clergymen, thirty-five of whom were members of the Established Church, the churchwardens, overseers, &c., complaining of the evils which had been the result of the new law respecting the sale of beer. many remedies had been proposed for those evils; that which, after much consideration, he was disposed to recommend was, to expunge the clause which provided for the consumption of beer on the premises; and he was quite sure, that, even if there were a fuller attendance of Members, he should have a general concurrence of opinion in favour of that proposition. It was thought by some, that that part of the act had worked better in large towns, where there was a compact population more immediately under the inspection of the police, than in rural and thinly-peopled districts. He confessed, that, from the information which he had obtained upon the subject, he was not of that opinion. Of the enormous evils of the present system he had abundant proof in representations from Huddersfield, York, Portsmouth, Sheffield, Leeds, Rotherham, &c. He had received, among others, a letter from Mr. J. F. Forster, chairman at the quarter sessions at Salford, a gentleman remarkable for the liberality of his character and the capacity of his understanding, who expressed himself strongly opposed to the measure, from the experience of its pernicious consequences he had had as a magistrate. This gentleman stated, that he had been not unfavourable to the experiment at first, from a wish to supply the labouring classes with a wholesome and refreshing beverage at a cheap rate, and to extend to them every advantage which their station permitted; but he was now quite satisfied that the introduction of beer shops had been productive of consequences bad in every respect among the working classes, destructive of their habits of foresight and economy, subversive of moral feeling, and ruinous, in many instances, to their families. He was quite aware, from long experience, how difficult it was to predicate the consequences of any measure introduced into Parliament; but, on looking back to the debate on the introduction of the Beer Bill, he must say, that it appeared to him that the results of the measure had been more correctly anticipated by its opponents than was usual on such occasions. It had been maintained, that the consumption of spirits would be materially diminished by the new bill. It appeared, however, that no bill had ever been more productive of drunkenness and immorality. Under these circumstances, however late in the session, he was induced to bring the subject under the consideration of the House; partly with a view to prepare the way for some change in the law which, in his opinion, was inevitable; and, as far as he was concerned, with a view to repeal that part of it which related to the drinking of beer upon the premises. He had not the slightest intention to do anything calculated to distress the present Government. The existing law had, indeed, been introduced under the Government of those individuals in whose political opinions he concurred; although the duties of the office which he had at that time the honour to hold, prevented him from paying the attention to the subject which its importance demanded. In justice to his constituents and to others, who, on the faith of the Act of Parliament, had entered into the beer trade, and whose interest he was anxious to protect, he thought it his duty to take the earliest parliamentary opportunity of warning them that it was not probable the law would exist long. All these objects conjoined would, he hoped, be a sufficient justification to the House of the motion he was about to make. He repeated, that he had received innumerable representations of the evils which had resulted from the multiplicity of those receptacles of every kind of vice and depravity, the beer-shops. Without interfering more than was necessary with the enjoyment of the poorer classes, it was the duty of Parliament to protect them from such evils as these. He regretted, that the subject had not fallen into the hands of one more practically acquainted with the facts of the case than he was: but he would now move, that there be laid before the House copies of certain passages in the presentments of the grand juries of England and Wales, bearing reference to the state of the law affecting the sale of beer, in the years 1836, 1837, and 1838.

Mr. *Ayshford Sandford* seconded the motion. He was one of those who, at the time of the introduction of the new law, anticipated the evils that would flow from it. It had been introduced in consequence of the grievances to which the licensing system had given rise. Now, although he was hostile to the existing law, he by no means wished to re-introduce the licensing system to which that law had put an end. One of the great evils of the existing system was, the creation of small beer-houses of the lowest description, kept by men without capital, and who obtained credit from the large brewers for three-fourths of their stock. As one means of obviating the evil it might be advisable to provide that no man should sell beer who was not the brewer of it.

The *Chancellor of the Exchequer* gave full credit to the noble Lord for the motive which had induced him to come forward with the present motion, but, at the same time, he (the Chancellor of the Exchequer) was bound to confess, that he was not yet convinced by any facts or any arguments which had been advanced, that an invasion of the principle of the law, as it now stood, would lead to such an improvement in the morals of the people as the noble Lord and those who thought with him supposed. He had always been of opinion that the measure of the right hon. Gentleman, the Member for the University of Cambridge, which destroyed the old monopoly and opened the trade in beer, was one of the wisest and most prudent acts of the Legislature that he had ever in his time seen introduced into Parliament. He believed, that the benefit conceded to the public by that measure was much greater than any loss that might have resulted in a financial point of view. He believed, too, that the relief which it afforded to a great trade from vexatious interpositions of the Excise was another very great benefit. With respect to the increase of crime, which had been so much relied on, he could not at all admit that increase to be a consequence of the Beer Act. Nor had he any more faith in the allegations which were made of a greatly increased consumption of spirituous liquors. Where were the proofs of it? Gin-shops in London were not on the increase, but quite the reverse. What would be the effect of any alteration of the present law that should put an end to the sale of beer in those houses? Would it not be to bring on again the old monopoly, and all the evils of the licensing system? He did not mean to say, that the existing law was incapable of improvement, but he wished most earnestly to deprecate any return to the old system? Therefore, though he had no objection to this return, and though he was aware that no proceedings were to be taken upon the motion during this Session, yet, differing as he did from the noble Lord as to the facts which he had stated, as well as from the arguments which he had deduced from those facts, he felt it his duty to implore the House and the public to consider well the inconvenience and evil which must result from a change of the law as it stood; to discuss dispassionately both sides of this question; to compare objection with objection; and to determine at length to legislate only upon general principles, in case, as generally happened, facts were found to agree with those general principles, which they ought to look to on this very important question; and having done this, then let them proceed to apply police regulations, not to one class only of these houses, but to all indifferently.

Mr. *Pakington* expressed his gratitude to the noble Lord for having brought this subject forward. It was almost impossible to over-rate the seriously prejudicial effect which this measure had had upon the morals of the people.

Mr. *Hume* could regard the object with which such motions as the present were brought forward only as meddling interferences with the comforts of the poor. He did not understand why the poor man should not be allowed to drink his pot of beer where and when he chose, and where he could get it best and cheapest, whether within the doors of a beer shop or in the street. It was melancholy to see those who were in possession of the highest luxuries so anxious to deprive the poor of every little comfort. In his opinion they did not look high enough for the evils of which they complained. He attributed much of the crime to the want of education. Ignorance was the root of the evil. The people were brought up like brute beasts. What education was given to them? There were a few charities, but the people had a right to be educated. They had as much right to education as as they had to a provision for the sustenance of the body. He begged the hon. Gentlemen opposite to inform him what education was afforded to three-fourths of the agriculturists? The noble Lord said he had received information from some one in London of the demoralization caused by the Beer Bill. Would the noble Lord state who the party was? He (Mr. Hume) knew that the licensed victuallers had been very busy in getting up an opposition to the beer shops, and perhaps the noble Lord had had some communication with them. According to the returns on the table of the House, it appeared, that within a certain period during which 514 licensed victuallers had been charged by the police with offences, only 240 keepers of beer shops had been so charged. He was prepared to show, that the allegation that the morals of the people were injured by the beer-shops was quite unfounded. While they heard so much of the demoralization of the poor, no mention was made of the misconduct of other classes. Who were the parties who disgraced themselves by gross misconduct about the period of the coronation? Were they not gentlemen and noblemen? He deprecated the disposition which exhibited itself year after year to meddle with the indulgences of the poor. Nothing had for a long while pleased him more, than the declaration of the right hon. the Chancellor of the Exchequer, that if they were driven to put down the beer shops, he should consider it necessary to take into their serious consideration the propriety of establishing a free licensing system, giving every man the power of taking out a licence, subject only to certain police regulations. It would give him very great pleasure to see such a principle acted upon. He should move to-morrow fo returns which would show a very different result from that anticipated by the noble Lord. Inquiry could not fail to show how completely unfounded were the representations of hon. Gentlemen opposite on this subject. He thought some good would result from the present discussion; it would go far to counteract any effect that might have been produced by the extraordinary declaration of a noble and learned Lord in another place, that a sentence of condemnation had gone forth against the beer-shops. He should oppose, to the utmost of his power, any attempts that might be made by new legislation to interfere with the comforts of the poor.

Viscount *Dungannon* said, that in his neighbourhood it was found, that most of the crime that was committed was concocted in the beer shops. He trusted the return moved for, would make out such a case as to induce her Majesty's Ministers to take the matter up. Hon. Gentlemen opposite might look with jealousy to these complaints, because of the quarter from which they came, because they proceeded from the magistrates, and from the clergy; but the families of the labourers, and farmers, and others, were amongst the complainants. So strong was his impression as to the effect of the beer shops, that he had strictly forbidden any man to set up such an establishment on his estate.

Mr. *Warburton* saw no doubt, looking at the source from which the invitation to petition came, there would next Session be, as the noble Lord had said there should be, a very large number of petitions sent to Parliament against the beer shops. Ever since the act passed authorising these establishments, they had been exceedingly unpopular with the magistrates and the clergy. He thought if they had a committee to inquire respecting the conduct of the beer shops, they ought to have a committee of the labouring classess to inquire into the effect of the houses of entertainment generally. No doubt their report would be, that at clubs and such places there was much drinking of champagne and other wines, that people spent time there which they had much better spend elsewhere, that there was not a little gambling, &c. He did not deny the necessity of police regulations, but let them apply equally. The last committee appointed recommended certain regulations respecting the closing of the beer shops, but that committee said, those regulations ought also to be enforced against the licensed victualling houses. The report of the committee had remained a dead letter. So much for the impartiality which a certain party was disposed to deal out.

Mr. *Darby* said, there was scarcely a respectable labourer in the country that did not set his face against the beer-shops. He denied, that the new beer-shop system was either a comfort or an advantage to the poor. On the contrary, his belief was that it tended only to demoralize the lower classes, and he, for one, felt much obliged to the noble Lord for having brought the subject forward. When they found that, instead of doing good, it only produced evil, he thought the best thing they could do would be to get rid of it altogether as a nuisance, which ought to be discontinued as speedily as possible.

Mr. *Hawes* was perfectly willing to admit, that the motive which actuated the noble Lord was a good one; that the only object which the noble Lord had in view was the amelioration of both the moral and physical condition of the people. The whole case, however, as it stood at present, rested on mere allegation that crime had increased since the new beer act had come into operation. Now this was a matter which ought not to depend on individual opinion, but upon facts; and he was prepared to show from authentic documents that, so far from having increased, crime—he meant that species of crime which was said to result from the beer-shops — had materially diminished within the last three years, especially in the counties of Middlesex and Surrey, where not only the population, but wealth had increased, and the inducement to crime also. No doubt they had in these counties a better description of police than formerly, and likewise a more prompt and speedy gaol delivery; but as a commission had issued to inquire into the state of the rural police he thought they ought to wait until the report of that commission was presented to the House, before they took any step in this important matter. No doubt that report would be laid on the table of the House early next session, and then it would be time enough for them to determine as to the course they ought to pursue. The hon. Member read a calculation which had been officially made as to the state of crime during the last three or four years, and from this document it appeared that although forgery and some other crimes had increased within that period, there had been a very considerable diminution of those crimes which were said to be engendered in beer-shops. On this evidence he did not hesitate to say, that they ought to arrive at any conclusion rather than that of requiring the repeal of the act under which the beer-shops had been established. He was well aware that there were persons who sought its repeal from mercenary motives, because it deprived them of advantages which they enjoyed under the old licensing system; but at all events the present complaint came with rather a bad grace from the hon. Gentleman opposite, who resisted every effort that was made to have the people properly educated. He did not look to the repeal of the new Beer-law Act, or any other measure of the kind, for the moral improvement of the people; but he looked for it in the diffusion of knowledge, and that extension of the suffrage which would oblige the upper classes to identify their own interests with the welfare of the poorer classes of the community. He thought that before the noble Lord came forward with any measure on the subject he was bound to show, that he had made out his case, and that, in point of fact, the crime which he attributed to the beer-shops had resulted from them.

Mr. *Slaney* said, it was his misfortune very often to disagree with the opinions on both sides of the House. The hon. Member for Lambeth denied, that there had been any increase of crime, but in this statement the hon. Gentleman was clearly mistaken. Crime had increased fearfully throughout the country, and it was, therefore, the duty of that House to institute inquiry as to the cause, and how the evil could be best remedied. He admitted, however, that the cure for the evil would not be obtained by a return to monopoly in the article of beer. It was to be remembered, that beer-houses were very different in towns from what they were in the country. In London, for instance, they heard the effect of beer-shops was by means of competition to reduce the price of beer to a moderate sum, while, in the country, beer-shops were established in obscure places, and were on that ground very objectionable. It was his opinion that they ought to require a criterion of some property before a beer-shop could be established. It was his opinion, that there ought to be some improvement in the mode of granting licences to beer-shops. It was plain that the increase of beer-shops had not prevented an increase in the consumption of spirits. Within twenty years the consumption of spirits had risen from 9,000,000 of gallons to that of 27,000,000 gallons. He attributed a great deal of the consumption of spirits to the negligence on the part of the police. He thought the police were on this point scandalously negligent in their duty, for any hon. Gentleman going home at two o'clock in the morning could see, that the spirit-shops were open at that hour.

Mr. *M. Phillips* admitted, that there were just grounds of complaint against the new beer-shop system, and it was his intention next session to move for a committee of inquiry on the whole subject. He was prejudiced in favour of neither one party nor the other, and therefore when the facts were really ascertained he should be prepared to concur in any measure that the House might deem expedient to remedy the existing evil.

Lord *Ingestrie* said, that the beer-shops in his part of the country had been productive of the worst possible consequences. They were the resort of the ill-disposed, and crimes of all kinds were concocted in them. So far from being hostile to the education of the people he had always done all in his power to promote that object; but, as he could not see what connection there was between education and the beer-shops, he must press upon the House the necessity of adopting some step, and that speedily, for getting rid of the evil, which throwing open the sale of beer indiscriminately had given rise to.

Mr. *Wallace* said, that if there were no licensed victuallers he was sure there would be no complaint against beer-shops. All they were doing was this, making the beer-shops bad, by giving them a bad character. What they ought to do was to encourage men of the best character to enter into competition in this business. His opinion was, that the people in his country were much better conducted than they were in this; and yet in his country he could produce to them a village in which every other house was a public-house, and where he was quite sure the people were more sober than they were at Crockford's, or at any club-house or public-house in London.

Mr. *Villiers* said, the noble Lord, the member for South Staffordshire had said, that a large portion of his constituents, and some of them must also be his (Mr. Villiers's), had given it as their opinion that every crime and every vice committed in that part of the country, was to be attributable to the beer-houses. Now, he must say, he had not received any information of that kind. He was disposed to support the proposition of the hon. Member for Manchester, (Mr. M. Phillips), that no steps should be taken this year, that the inquiry should be postponed until the next, and by that time the House could have petitions or facts upon which to proceed. No allegations had been made in this debate on which the House could place credit—nothing had been brought forward but hearsay evidence. He for one, denied, that the Beer Act had done any mischief. What was the case the very year before the bill passed? Why, the southern counties of England were all but in a state of insurrection, neither life nor property was safe, and that occurred the very year before selling beer to be consumed on the premises in these houses were allowed. He thought the measure had been productive of good and not of evil; but when the Legislature had neglected to educate the people, and had done everything to demoralise them, was it to be expected, when a restraint was removed, that at first some excess was not to be expected? The act ought to have a fair trial, and if it had been proved, as it had, that crime had diminished since its passing, why was the subject now brought forward? The Beer Act had, at least, had one good effect, it had diminished the evils arising out of the licensing system; but if the act were repealed, would not the old evils again arise? Was there not on the part of magistrates, and those who made them, a desire to invest them again with the power and influence which they had formerly so improperly enjoyed?

Sir *J. Guest* said, that in his part of the country he knew the new beer-shop system was much condemned, and that an alteration of it was loudly called for, not only by the better classes, but by a great portion of the poor. In one village, that he could mention, there were at least one hundred beer-shops, and their existence had led to every species of disorder and immorality.

Mr. *Brotherton* fully concurred that the subject ought to be inquired into, as exposing men to temptation was not the best mode of checking evil. There could be no doubt that the new beer-shops had led to intemperance—that intemperance led to poverty—and that poverty led to crime. He must say, that the noble Lord was entitled to the thanks of the country for the attention which he had bestowed on this important subject. He would not undertake to point out what the remedy was that they ought to apply, but still it was his opinion that, as evil existed, it should be removed with as little loss of time as possible. He had no wish to do injustice to those who had invested their property in this trade, but he, at the same time, thought that any system which occasioned intemperance on the part of the labouring poor, ought to be put an end to at all risks. He was an advocate for free trade, but where the particular article produced demoralization, he fully concurred in the propriety of imposing restrictions. It was well known that many of the beer-shops were kept by disreputable persons—that they were the resort of the ill-disposed, and that no police could by possibility keep them in proper check. This was his opinion, and therefore he should support any proposition for inquiry, with a view of ascertaining the real facts, in order that they might see what course it was expedient to take.

Mr. *Aglionby* was afraid that the country would think the feelings of that House was in favour of monopoly, and against the wishes of the public at large. He did not think, that they had any evidence before them which would justify a committee of inquiry; but still he was obliged to the noble Lord for moving for returns which under any view of the case would be valuable, inasmuch as they would show whether the evils complained of existed or not. In large towns, where there was a good police, throwing open the trade in beer was attended with no danger what ever, and he doubted whether any was to be apprehended in the remote or rural districts. He thought, that it was a great advantage to the poor to be able to obtain good and wholesome beer at a cheap rate, and therefore, although he agreed that some attention should be paid to the character of the parties keeping beer-shops, he hoped that Government would not deprive the poor of this advantage.

Mr. *Parrott* said, that so far from the magistrates of his part of the country finding fault with the New Beer Act, their opinion was, that it had been productive of very great benefit to the poor. For the magistrates of his part of the country he could say, that they had no wish to return back to the old licensing system, but, he was at the same time aware, that there were parties who were anxious to have the present law repealed. Instead of paying 4*d.* or 5*d.* a pot for beer, it was a great benefit to the labouring poor to be able to obtain it for 1½*d.* or 2*d.*, and, therefore, even if there were some disadvantages in the present system, the advantages greatly preponderated. The only effect which restrictions could have, would be to cause a considerable defalcation in the revenue, and reduce the price of barley; and his opinion was, that it was to the interest of the country at large that there should be a free trade in both cider and beer. While, however, he supported free trade, he was prepared to support any motion for a better system of police.

Mr. *Hindley* was not favourable to the beer-shop system, because it threw temptation in the way of the young which led to demoralization. He thought, however, that the evils complained of might be remedied by an improved police. He was opposed to the old licensing system, and certainly had no wish to return to monopoly. He agreed, however, that the subject ought to be investigated by a Committee of that House.

Returns ordered.

PORTUGUESE AUXILIARY LEGION.] Viscount *Sandon* said, that the motion with which he meant to conclude was one to which he did not think, that the noble Lord (Palmerston) would object. It was for a copy of a letter, signed by Sir John Milley Doyle, and other officers of the auxiliary legion, complaining of the commission which had been appointed to investigate their claims. This body of men were induced to go out to Portugal, not with the direct encouragement of the Government, nor as in the case of Spain, by the repeal of an order in council; but it was notorious, that the expedition took place with the knowledge of the Government, and without any discountenance on their part. The service which they had rendered to the cause of Donna Maria was never disputed, the establishment of the present government of Portugal being mainly owing to their defence of Oporto, and their gallant exploits in other parts of Portugal. Their reward had been the greatest suffering and distress. For four years their claims had been kept in abeyance; commission after commission had been appointed, but with no satisfactory result to those ill-used persons. Even the present commission, which was of a more respectable character than those formerly appointed, must decide in a manner unfavourable to the claimants, if they wished their decision to be final; for, otherwise, the government of Portugal declared their intention of referring the question to another tribunal. The noble Lord concluded by moving for a copy of a letter to which he had adverted.

Viscount *Palmerston* was perfectly ready to state his concurrence in the opinion that this body of men had rendered very important service, and were entitled to the liberal consideration of the Portuguese government, because it was unquestionable that, if they had not defended Oporto, in all probability the result of the siege would have turned out differently from what it had done. So far as our Government was concerned, though they took no part in encouraging these persons to go out, he was perfectly ready to admit, that their going out promoted objects which the Government approved of, and, so far from throwing any censure on their conduct, they had entitled themselves to the support and attention of Government. Their claims had been left standing for a considerable time; but, for the last two years, the government of Portugal had been in such a state of uncertainty and periodical change, that the irregularity in not disposing of these demands was not so wonderful as it might be considered if the circumstances were different. He could assure his noble Friend, that the British Government had not been indifferent to those claims, and that our Minister at Lisbon had, from time to time, been instructed to afford every assistance, and had frequently been in communication on their behalf with the Portuguese government. He believed he might say, that, without his (our Minister's) interference, the commission now in force would not have been established. The present commission was appointed in December last. The Portuguese who belonged to it were unobjectionable, and it also comprised General Stubbs, an officer whose high character was a guarantee that his influence would be used for the proper consideration of these claims. He could not say, that he had any recent accounts of their proceedings. At the same time he could undertake to say, that they had not made the progress in the investigation which the claimants had a right to expect; and he was aware that the question pending before it was, whether a certain contract, on the observance of which the claimants insisted, was binding or not. He could assure his noble Friend, that he should not fail to pursue the matter, and that whatever influence the Government possessed, should be put in force to bring about a just settlement of these claims, and as early a settlement as might be consistent with the circumstances of the Portuguese government.

Motion agreed to.

STIPENDIARY MAGISTRATES (IRELAND).] Sir *Robert Bateson* did not wish, at so late an hour, to enter into a full discussion of this subject, but, in moving for the return of which he had given notice, he must say, that he thought there had been a strong disposition of late years, on the part of the Irish Government, to run down the unpaid magistrates of the country, and to establish stipendiary and paid magistrates in their place. Hitherto the magistrates had been selected from amongst the resident gentry, and he wished to know why those powers should now be taken out of their hands. He complained that, in many parts of the north of Ireland, stipendiary magistrates had been introduced where there was no occasion for them, and that, in several places, tumult and constant broils had been the consequence. The conduct of the Irish Government had, in this respect, been marked by great partiality, as was also the course they had adopted in putting down and oppressing the Protestants in that part of the kingdom to which he had before referred. Towards the Protestants and Orangemen of Ireland, the Government had acted in a most irritating and insulting manner; but he hoped, that those persons would soon show their enemies that they were not the lawless set they were described to be. He complained also of the partiality which had been shown in the last revision of the magistracy, and of the lord-lieutenants of counties not having been properly consulted. It was true, that they had been consulted, but it had been done so hastily as not to allow them time to give a proper opinion. Now the act, which was called the Lord-lieutenants' Act, had been extended to Ireland by Earl Grey, for the express purpose of the lord-lieutenants being enabled to recommend to the Lord Chancellor, persons whom they considered fit to be appointed magistrates; but that act had, in many instances, been unattended to. He did not attribute this to the noble Marquess who was now at the head of the Irish Government, but he had thought that it had been occasioned by a power greater even than that of the Lord-lieutenant. That, however, had been denied, and he must, therefore, consider it to have been produced by the Jesuits, who were not only numerous in Ireland, but also in England. The hon. Member moved for a return of all the stipendiary magistrates in Ireland, specifying their names, salaries, and emoluments, the date of their appointment, their residence, and the districts under their charge, and for what counties they hold commissions of peace.

Viscount *Morpeth* would not offer the slightest opposition to the motion of the hon. Member. There was nothing in the system of the Government of Ireland which required concealment, and he had, therefore, no objection to produce the accounts which had been moved for. He would just explain that, as to the revision of the magistrates having been made hastily, it had entirely arisen from the necessity of the commissions being issued by a certain day, and that with respect to consulting the Lord-lieutenant, he held, that the right of appointing persons to the magistracy rested exclusively with the Lord Chancellor.

Motion agreed to.

OUDE.] Mr. *Winthrop Praed*, in rising to make the motion of which he had given notice for papers respecting the Government of Oude, wished to ask the right hon. Baronet opposite two questions connected with it. It was, he believed, an acknowledged fact, that on the death of the late King of Oude, the British resident, at Lucknow, had interfered with an armed force to place the third son of the deceased King on the throne; and that that interference had caused the loss of a thousand lives. The questions which he wished to put to the right hon. Baronet were, first, whether the steps which had been taken by the British resident at Lucknow, or by the East-India Company, with respect to the succession to the throne of Oude, had any connection with the payment of the debts due by the government of Oude to the Company; and, secondly, whether the despatches which had been sent to Lord William Bentinck, authorising him to take possession of the territory of Oude, had any connection with the steps which had been taken with respect to the succession to the throne of Oude? The hon. Gentleman concluded by moving for a number of papers connected with the succession of the government of Oude.

Sir *John Hobhouse* said, that he had no objection to give the best answers that he could, to both the hon. Gentleman's questions; and he hoped, that those answers would prove satisfactory. To the production of the papers, also, with some slight alterations, he had no objection; and when they were produced, the hon. Gentleman and the House would be as well able as he was, to form a competent opinion of the conduct, which had been pursued on the occasion, by the East-India Company and their agents. As far as he had hitherto been able to look at the returns, he had not the slightest doubt in his own mind, that the president at Lucknow, and the Governor-general had come to a correct conclusion on the question; and that the person who was now on the throne of Oude, was actually the legitimate successor to it. As to the bloodshed which had attended the transaction, it had been greatly exaggerated, the number of lives lost having been only 35 instead of a thousand. To the first question which had been put to him by the hon. Gentleman, his answer was ,that there had been no stipulation, and, as far as he knew, that there had been no intention in taking the steps relative to the succession, to make any arrangement with respect to the pecuniary claims of the Company to which the hon. Gentleman had alluded. To the hon Gentleman's other question his answer was, that in placing on the throne of Oude the individual who now sat there, there had been no stipulation, nor, as far as he knew, any intention to take that step for the sake of giving the East-India Company a greater right than they already possessed by treaty for the assumption of the territory of Oude. He would add, that so far was the course which had been pursued with respect to the succession, from adding to the chance (if it was a desirable object, which he did not believe it was) of enabling the Company to take possession of the territory of Oude—such was the character of the reigning Prince, that there was little probability, that he would afford us any pretext for assuming possession of the territory. Subject to some slight omissions and modifications, he had no objection to the hon. Gentleman's motions; and he could only say, that if, when the papers in question were laid on the table, they should appear to be incomplete, he would readily furnish any supplementary documents, that might be deemed necessary, being perfectly persuaded, that in the whole of the transaction in question, the East-India Company, both at home and abroad, had behaved with singular moderation, and had done nothing inconsistent with the high character which they had hitherto maintained.

Returns ordered.

HOUSE OF COMMONS,

Wednesday, July 11, 1838.

MINUTES.] Bills. Read a second time:—Registration of Voters (Ireland), No. 2; Insane Persons; Tithes and Land Managers.—Read a third time and passed:—Qualification of Electors.

PAROCHIAL ASSESSMENTS.] Mr. *S. Lefevre*, in moving the second reading of the Parochial Assessment Bill, said that his object was to put an end to the contention which had of late arisen, in consequence of a mode of rating being adopted which was found to work most unsatisfactorily. The Parochial Assessment Act, which had been passed some time back, was framed with the view of introducing throughout all the parishes of England an uniform mode of rating, but a proviso was unfortunately introduced into that bill during its progress through the House of Lords, he believed at the suggestion of the Archbishop of Canterbury, the object of which was to secure to the clerical tithe-owner all the advantage which was taken from the land-owner by the decision in the case of the King *v.* Joddrell. By this decision it was determined that the farmers' profits ought to be included in the assessment. The House would recollect that, by the statutes of Elizabeth, all property was liable to be rated, and the rate was levied in proportion to the ability of the parish. It followed, of course, that all personal property was subject to a rate, but gradually a great portion of personal property, such as that which arose from fees of professional men and the produce of labour, escaped being rated. In fact, wherever it was impossible to arrive at a fair valuation, the judges seemed to have sanctioned the principle, that property so circumstanced should not be rated at all. It was a hardship on the landed proprietor that his profits should be subject to be rated, but practically his legal liability cost him nothing, because the claim was never attempted to be enforced from the difficulty to which he had alluded; until the decision took place in the case of the King *v.* Joddrell. By several decisions as to the effect of the Parochial Assessments Act it was determined, that the property which was rateable was what the land would let for after deducting the poor-rate and the other expenses necessary to render it productive. In the case of the King *v.* Adams, which was the only one which had since been decided bearing exactly upon the point in dispute, in that of the King *v.* Joddrell, it was declared that the occupier ought not to be rated as to the profits; and though both cases were tried by the same judge, the judgment pronounced in the latter case did not bear out that of the former. Unless the House interfered, there would be appeals to the special Sessions from every parish in England, requiring that the law of rating profits should be speedily set aside. He was fully aware, that he had to encounter the opposition of the clerical tithe owners, and he was quite ready to acknowledge that he had a powerful opponent to meet in a rev. gentleman who propounded his views on this subject not only in a pamphlet which was in the hands of almost all the hon. Members of that House, but also through the ordinary vehicles of public information, which came within every body's reach. The only thing of which he (Mr. S. Lefevre) complained in that rev. gentleman's advocacy of his opinions was, that he accused him of want of faith in not adhering to the proviso introduced into the Parochial Assessment Acts. He was not himself consulted when that proviso was under consideration, but he had communicated with those who were, and they stated their distinct understanding to be, that the proviso was inserted without the smallest prejudice to the landowner, and that it was quite open to bring the subject before Parliament in the Session subsequent to that in which the bill passed. The argument for excluding the tithe-owner's charge on the land from the operation of the decision in the case of the King *v.* Joddrell was this—that the duties annexed to this impost converted it into a species of salary, which, as personal property, ought to be exempt from rate. But was not a rent-charge for tithes one of the most available and secure properties in the kingdom? Was it not infinitely better paid than landed property, and ought it not to be subject to the same burdens? One of the principal objects of the Tithe Commutation Act—to do away with the dissatisfaction which prevailed from the relative positions of the tithe-owner and the landed proprietor—must be frustrated if the titheowner were now placed in a better position than the holder of land. If the Legislature did not interfere, the announcement that it would not, would be the signal for litigation in every parish in England. Even supposing, that the decision of the King *v.* Joddrell was confirmed, how was it proposed to deal with cases where the occupier derived no profits, from the fact of his possessing a bad farm, or from other circumstances of that nature? The effect of allowing the law to remain in its present state would be to unsettle all fixed engagements connected with land, and he trusted, therefore, that the House would consent to read this bill a second time.

Mr. *Goulburn* said, that the hon. Gentleman in this bill very ingeniously concealed the object which he professed to have in view. He had no wish on the part of the clergy to avoid any burden that could be justly cast upon them by law. There was no desire on their part that they should not pay their full share of the burdens which Parliament imposed, whether for the general welfare of the country or for the maintenance of the poor within their parishes. All he claimed on their behalf was, that when they called upon all classes to contribute their proportion, the clergy should not be called upon to contribute more than fairly fell upon them. All he wished was, that the assessment should fall equally upon all classes. But how stood the present question? Two years since they had passed an act for the commutation of tithes in England and Wales, an act by which the clergy were called upon to forego any increase of property which should arise from an improvement of the agriculture of the country; and the clergy accepted in lieu of this an annual sum, founded upon the basis of what they had received during a certain antecedent period. This was in the nature of a bargain; for they called upon all parties to enter into a voluntary arrangement upon the principles laid down in the act? The 69th clause of that act enacted, that every rent-charge payable instead of tithe should be subject to all Parliamentary, parochial and other assessments, in like manner as the tithes were heretofore subject. He said, therefore, that if they now proposed to introduce a law which should make a difference with respect to the mode in which the rent-charges of the clergy should be rated to the poor-rates, leaving the charges themselves on the same footing they would most materially alter the conditions which they originally held out as an inducement to the clergy to agree to a general commutation. He thought upon a principle of good faith that the House ought to be cautious how they passed a measure which, whether more or less, imposed upon the rent-charges of the clergy, a burden which by law they were not heretofore liable to pay. If, indeed, they wished to alter the mode of rating, let it be done openly and without disguise. Let the subject be brought forward in the beginning of the Session, let it be fully and fairly discussed, and let the opinion of the House and the country be taken upon it. What would be the consequence of this bill? Why, that throughout the country every clergyman would be taxed to a considerable amount more than in the great majority of cases they had ever been subject to. He must say, then, that this was a measure of extreme injustice and hardship. Unless they applied to tithe property, and all property similarly situated, a different proportion of rating tithe of land rated at a rack-rent, they would not be doing justice to the tithe-owner. He begged to remind the House that this bill was not merely a declaratory measure: it was also an enacting measure, for it repealed that part of the 43rd of Elizabeth which enacted that all property should be rated. He was sure that there was a sufficient sense of justice in the House to induce them to reject the bill. He would conclude by moving, that the bill be read a second time that day six months.

Mr. *E. Buller* said, that the state of the law was such as to render legislation absolutely necessary. By the act of Parliament all property, whether capital or profit, was liable to be rated; and no custom, of however long standing, could set aside the clear intent of an act of Parliament. The decisions of judges were only valuable as interpreting acts of Parliament, but they could not alter them. He could not altogether support the present bill. He thought it was just and desirable as far as it was declaratory, but he objected to its enacting part, for it was an enacting bill, inasmuch as it declared, that certain property should not be liable to be rated. With this qualification, he would support the second reading of the bill, although at that late period of the Session, and considering the difficulties involved in it, there could not be much chance of its passing.

Mr. *Aglionby* called upon the House, as it valued the Church itself, to pass this bill into law. The ground upon which he supported the proposed alteration of the law, was this, that it could never be practically carried into effect as it stood. He did not deny, that by the original act of the 43rd of Elizabeth they might rate profits and stock in trade, but it was found, that so much mischief arose from it, that it gave such inquisitorial power to the overseers of the poor, and worked such detriment to the country, that by general consent it was never attempted to rate stock in trade or profits. If they allowed the matter to remain in its present state after the discussions that had taken place, they would have in every parish, contests between the tithe-owner and the landed interest.

Sir *R. H. Inglis* said, he looked upon the question not as one regarding the clergy only, but as a question between the tithe-owner on the one hand, and the land-owner on the other; and which ought to be decided simply according to the law which regulated tithes, as well as every other description of hereditament. He held, that it would be very unbecoming in an assembly consisting in great measure of landowners, to take from the tithe-owners, who, in this case were the weaker party, that which the existing law did not take from them; for this bill, which pretended to be a declaratory law, was actually an enacting bill, altering the state of the law as to these particular individuals. He trusted, that the House would not pass such a bill.

Sir *E. Sugden* said, that upon mature reflection he was much inclined to think, that the principle of this bill was right. There were two grounds, however, upon which he was disinclined to vote in favour of the present bill. The first was, that the case of "The King *v.* Joddrell," having been decided, though he (Sir E. Sugden) was sure correctly so, in favour of the clergyman, and the Tithe Commutation Act having declared, that the rent charges in lieu of tithes should be treated in the same way as tithes, and Mr. Scrope's act having preserved all the rights of the clergyman then existing, he could not now take upon him to usurp the power of the court of law and reverse a decision, which, until it was reversed, was favourable to the claims of the clergy. The second reason why he could not vote for the present bill was, that its recital was not correct, for there was no doubt existing as to the construction of Mr. Scrope's act. For these reasons he should vote against the second reading of this bill.

The *Attorney-General* quite concurred with the right hon. Gentleman, that the principle of this bill was the correct one, and was only sorry, that the right hon. Gentleman's vote should not coincide with the view he took of the principle of the bill. He agreed with the hon. Member for the University of Oxford, that this was not a question between the clergy and the laity, but between the tithe-owner and the land-owner. With regard to the case, " The King *v.* Joddrell," that was by no means to be considered a clear decision; on the contrary, he apprehended, there were good and sufficient grounds to set it aside as bad law. And, therefore, when the right hon. Gentleman alleged, that the Tithe Commutation Act proceeded upon the principle laid down in this case, he (the Attorney-general) must beg leave with all respect, to differ from him. The tithe-owners received their commutation, not under the law as laid down in " The King *v.* Joddrell," but according to what was actually law; and, therefore, if the law was badly laid down in that case, no injustice could be done them by passing a bill declaratory of what the law was or ought to be. He agreed in the criticism, that this was not simply a declaratory bill, as it was styled, but an enacting one; but surely this was an error which could be corrected in Committee, when he should certainly recommend, that the words used be " be it declared and enacted." He did hope, however, that objections of this kind would not be held sufficient to throw out a measure which the circumstances of this country in this important point imperatively required. The passing of this measure would prevent a tremendous flood of litigation, of appeals, and reserved cases which would otherwise overwhelm the courts from all parts of the kingdom.

Mr. *Darby* was quite convinced this was not a question of the clergy at all; but this one point ought to be considered —what would they do in cases which had been settled in direct opposition to " Rex *v.* Joddrell," cases of which he himself was aware? In those cases custom had prevailed against the law, and the question was, how far it had so prevailed? For his own part, he believed, that generally speaking the farmer had not been rated on the profits. The same judge who had tried the case of " Rex *v.* Joddrell," had intimated in " Rex *v.* Adams" the very great difficulty of arriving at a true account of the farmer's profits. This was the real state of the matter. How could you come at the profits? Suppose a farm was tithe free, the rent would be larger in proportion to what would be the value of the tithe: but was not the landlord rated on that farm to the whole amount? The fact was, this had not been a question of law, but (as the judges had often said) a question of custom. Taking, then, into view the whole of the question, and seeing, that great injustice would be done, if it were to be said, that the profits of the shop shall not be rated, but the profits of the farm shall be rated, he should support the principle of the bill.

Mr. *R. Palmer* lamented, that the bill had not been brought forward at an earlier period of the Session. During the time this question was in agitation every arrangemement would be arrested in its progress, and no man be able to make a commutation of tithe satisfactorily. If the law were as the Attorney-general had stated, and a different decision to that in " Rex *v.* Joddrell" would now be given, why bring forward this bill at all? Considering that the bill would work great injustice, he should vote against the second reading.

Dr. *Nicholl* opposed the bill. The greatest injustice would be involved in its operation, for the tithe-owner was to be rated on the full amount, while the farmer was only rated to the extent of the rent he paid.

The House divided on the original question:—Ayes 104; Noes 42: Majority 62.

List of the AYES.

Abercromby, hn. G. R.
Adam, Admiral
Baines, E.
Bannerman, A.
Barnard, Edw. G.
Barneby, John
Barry, G. S.
Bernal, R.
Bewes, T.
Blake, W. J.
Bridgeman, H.
Briscoe, J. I.
Brotherton, Jos.
Bruges, W. H. L.
Bryan, G.
Buller, Edw.
Campbell, Sir J.
Cayley, E. S.
Chalmers, P.
Childers, J. W.
Chute, W. L. W.
Craig, W. G.
Crawley, S.
Currie, R.
Curry, W.
Dalmeny, Lord
Darby, G.
Divett, E.
Dowdeswell, W.
Duckworth, S.
Duff, James
Dunbar, Geo.
Ebrington, Visct.
Elliot, hon. J. E.
Evans, Geo.
Finch, F.

Gibson, T.
Gillon, W. D.
Guest, Sir J.
Harvey, D. W.
Hawes, B.
Hawkes, T.
Hector, C. J.
Henniker, Lord
Hinde, J. H.
Hindley, Charles
Hodges, T. L.
Houldsworth, T.
Houstoun, G.
Howard, P. H.
Hutton, R.
James, W.
Lemon, Sir C.
Loch, James
Lockhart, A. M.
Lushington, Dr.
Lynch, A. H.
Marshall, W.
Martin, J.
Maule, hon. F.
Mildmay, P. St. John
Morpeth, Viscount
Morris, D.
O'Brien, W. S.
O'Conor, Don
Parker, J.
Parnell, rt. hon. Sir H.
Parrott, J.
Pease, J.
Pechell, Captain
Perceval, Colonel
Phillpotts, J.
Pusey, P.
Rich, H.
Roche, Sir D.
Rolfe, Sir R. M.
Rundle, J.
Rushbrooke, Colonel
Salwey, Colonel
Scholefield, J.
Scrope, G. P.
Smith, B.
Somerville, Sir W. M.
Stansfield, W. R. C.
Steuart, Robert
Stewart, James
Strutt, Edw.
Sturt, H. C.
Tancred, H. W.
Thornley, T.
Troubridge, Sir E. T.
Villiers, C. P.
Vivian, J. H.
Wallace, R.
Walsh, Sir J.
Warburton, H.
Ward, H. G.
Williams, W. A.
Winnington, H. J.
Wood, C.
Wyndham, W.
Yates, J. A.
Young, J.

TELLERS.

Aglionby, H. A.
Lefevre, C. S.

List of the NOES.

Acland, T. D.
Alsager, Captain
Baring, hon. W.
Blandford, Marquess of
Broadley, H.
Buller, Sir J. Y.
Courtenay, P.
Dalrymple, Sir. A.
Dungannon, Visct.
Estcourt, T.
Freshfield, J. W.
Goulburn, rt. hn. H.
Grant, F. W.
Grimsditch, T.
Heathcote, Sir W
Hepburn, Sir T.
Hodgson, R.
Hogg, J. W.
Holmes, W.
Hope, hon. C.
Hope, G. W.
Hurt, Francis
Jackson, Sergeant
Jones, T.
Kemble, H.
Litton, Edw.
Mackenzie, T.
Mackinnon, W,
Meynell, Captain
Pakington, J. S.
Palmer, R.
Parker, M.
Parker, R. T.
Price, R.
Pringle, A.
Rae, rt. hon. Sir W.
Sandon, Viscount
Sheppard, T.
Sibthorp, Colonel
Sugden, rt. hn. Sir E.
Tennent, J. E.
Wodehouse, E.

TELLERS.

Inglis, Sir R. H.
Nicholl, T.

SMALL DEBTS (SCOTLAND).] Sir *William Rae* moved, that the Small Debts Scotland bill be read a third time.

Mr. *Wallace* moved, that it be read a third time that day three months.

The House divided.
Ayes 45: Noes 63. Majority 18.

List of the AYES.

Alsager, Richard
Arbuthnott, hon. H.
Blandford, Marquis of
Broadley, H.
Bruges, W. H. T.
Buller, Sir J. B. Y.
Burroughes, H. N.
Codrington, C. W.
Courtenay, P.
Dalrymple, Sir A.
Darby, G.
Dunbar, G.
Dungannon, Viscount
Freshfield, J. W.
Gibson, T.
Gordon, hon. W.
Goulburn, H.
Grant, Colonel F. W.
Grimsditch, T.
Hepburn, Sir T. B.
Hinde, J. H.
Hodgson, R.
Hogg, J. W.
Holme, W.
Hope, hon. C.
Houldsworth, T.
Houstoun, G.
Hurt, F.
Inglis, Sir R. H.
Jackson, Sergeant
Jones, T.
Kemble, H.
Litton, Edw.
Lockhart, A. M.
Mackenzie, T.
Meynell, H.
Sugden Sir Edward
Parker, M. E. M.
Parker, R. T.
Price, R.
Pringle, A.
Sugden, Sir E.
Teignmouth, Lord
Tennent, J. E.
Wodehouse, E.
Young, J.

TELLERS.

Rae, Sir W.
Nicholl, J.

List of the NOES.

Abercromby, G. R.
Adam, Sir Charles
Aglionby, H. A.
Baines, E.
Bannerman, A.
Barnard, E. G.
Barry, G. S.
Bernal, R.
Bewes, T.
Blake, W. J.
Bridgman, H.
Briscoe, J.
Brotherton, J.
Bryan, George
Campbell, Sir J.
Cayley, E. S.
Chalmers, Patrick
Craig, W. G.
Crawley, S.
Curry, W.
Dalmeny, Lord
Duckworth, S.
Duff, J.
Eliot, hon. J. E.
Evans, G.
Finch, Francis
Hawes, B.
Hector, C. J.
Hindley, C.
Howard, P. H.
Hutton, R.
James, W.
Lushington, Dr.
Lynch, A.
Marshall, W.
Martin, John
Morpeth, Viscount
Morris, David
O'Conor, Don
Parker, J.
Parnell, Sir H.
Parrott, J.
Pease, J.
Pechell, Captain
Rich, H.
Rolfe, Sir R. M.
Rundle, J.
Salwey, Colonel
Smith, B.
Stansfield, W. R. C.
Steuart, R.
Stewart, J.
Strutt, E.
Tancred, H. W
Troubridge, Sir E. T.
Thornley, Thomas
Vivian, J. H.
Wallace, R.
Warburton, H.
Ward, H. G.
Williams, W.
Winnington, H.
Yates, J. A.

TELLERS.

Gillon, W. D.
Maule, hon. F.

Bill put off for three months.

IMPRISONMENT FOR DEBT.] The

Attorney-General moved the second reading of the Imprisonment for Debt Abolition Bill, which had come down from the Lords, affirming a principle which had more than once received the sanction of that House. He would state in two sentences what the result of the present bill was. It abolished imprisonment for debt altogether on *mesne process*, unless on satisfactory proof to the court that a debtor was about to fly the country. Now, if the bill did no more than this, he considered it was one of the most beneficial measures that ever passed through Parliament. But it effected other and most important objects. It very much facilitated and improved the remedy of the creditor against the property of the debtor, inasmuch as it gave the former a remedy against funded as well as real property. It was a most important improvement of the law, and benefit to the creditor, that the debtor could no longer set him at defiance, by remaining without the walls of a gaol, or in the rules, and spending that property which belonged to his creditors. At present a debtor might be possessed of 10,000*l.* a year, and, on being arrested, might take the rules and set his creditors at defiance, unless, indeed, he owed not more than 300*l.*; and this was a most singular anomaly in the law—for in that case, by the Lords' Act, he was compelled to give up his property; but, if he owed more than that sum, he could remain in a prison, or in the rules, living in affluence and luxury. By the present bill, however, power was given to compel creditors, whatever the amount of their debts, to surrender up for the benefit of their creditors whatever property they possessed. He certainly regretted, that the bill did not go further, and abolish imprisonment for debt on judgments. The bill, however, had undergone the fullest inquiry in another place, and he thought the public was much indebted to the noble and learned Lords, who had bestowed so much attention on this subject in the other House of Parliament. It would be open to hon. Members to propose any amendments in Committee, but at the same time he should be extremely sorry to see so great an improvement in the law, adopted after so much consideration, interfered with. He begged to move, the bill be now read a second time.

Mr. *Freshfield* said, that it was satisfactory to know, that the bill, as it had been sent down from the House of Lords differed in no one respect from what it would have been when sent up to them, if the recommendation of those who had opposed the bill as introduced by his hon. and learned Friend had been adopted. All the objections which had in the first instance been made to it had been remedied by the House of Lords. But, without allowing himself to indulge in any degree of triumph because those suggestions had been adopted and the objectionable parts of the bill had been omitted, he wished to call the attention of his hon. and learned Friend to one omission in the bill, a vital omission, and which would make the bill most mischievous if it were passed in its present state. The bill proposed the abolition of imprisonment for debt on mesne process; but in consequence of this there were taken away two great and leading acts of bankruptcy; the one being that a person might now lie in prison for twenty-one days without being able to procure bail, and the other, that he might remain in his house in order to avoid arrest. If the abolition of imprisonment were adopted, of course no person could commit these acts of bankruptcy, and in consequence he could not be compelled to make a distribution of his effects, as was the case now. There was also another improvement which he should wish to be made. He would propose to put traders not being Members of Parliament on the same footing with traders who were, so as to give security for the payment of their debts by bond, and that if such bond were not fulfilled, it should be considered an act of bankruptcy. He hoped his hon. and learned Friend would not object to the introduction of some such provisions into the bill, and if he did not, he had prepared a clause to that effect, which he would submit to the House; as also another clause giving a power to the bill of taking stock in execution. He wished these amendments to be made in the bill, and that the House would not adopt as a principle what had been said by his hon. and learned Friend, that because the bill had been sent down from the House of Lords, and was nevertheless defective in one or two particulars, either this bill or none was to be passed.

The *Attorney-General* said, he would not at the present stage offer any opinion on the suggested amendment of the hon. and learned Gentleman, further than to say that while he fully admitted the right of that House to make any amendment, however important, in the bill, yet he thought that any essential change in the bill from the state in which it had come down from the other House, ought to be deprecated, as being calculated to endanger the passing of the bill, at this advanced period of the Session.

Mr. *Hawes* should not oppose the bill, though it was very far indeed from being the wholesome and salutary measure to which he had on a former occasion given his assent, and although he considered that while taking away the right of arrest by *mesne* process, it did not afford adequate means for the recovery of the property of debtors. Imperfect as the bill was, however, he hailed it as a contribution to a better state of things.

Bill read a second time.

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HOUSE OF LORDS,

Thursday, July 12, 1838.

MINUTES.] Bills. Read a first time:—Qualification; Western Australian Act Continuance.—Read a second time:—Entails (Scotland).

Petitions presented. By the Duke of RUTLAND, from Great Grimsby, and by Lord KENYON, from Clergymen in the county of Norfolk, against any further Grant to Maynooth College.—By Viscount MELBOURNE, from a place in Ireland, in favour of Irish Municipal Reform.

AFFIRMATIONS INSTEAD OF OATHS.] Lord Denman moved the Order of the Day for the House going into Committee on the Affirmation Bill.

The Duke of *Wellington* feared, that unless great circumspection were used, this bill would have the effect of encouraging a species of inferior evidence in judicial cases. He suggested, that those who meant to avail themselves of the provisions of the bill, should previously procure a certificate setting forth their scruples, which certificate should be granted without expense, and should be renewed annually.

Lord *Denman* had no objection to adopt the suggestion of the noble Duke.

Lord *Ashburton* said, it would be better, in his opinion, if a general measure, extending to all classes, were passed; and that the particular privileges now granted to certain sects only, should be removed. As the law now stood, and would stand under this bill, one mode of affirmation was allowed to one body, and another to a different body. He thought that provision should be made in this bill calling on individuals to make known their sentiments on the subject of taking oaths, before the occasion arose when they might wish, in a court of justice, to make a declaration. Individuals ought not to be allowed to take that course on the spur of the moment.

Lord *Ellenborough* agreed in the propriety of what had fallen from the noble Lord. If some such precaution were not adopted, *alibi*-men would be found ready on all occasions to make these declarations, and the effect would be most injurious to the interests of justice.

The Earl of *Haddington* objected to the provisions of the bill being extended to Scotland.

The Earl of *Wicklow* had attended the Committee on this bill, which certainly, compared with what it was, had been considerably improved. If, however, it were a good measure for this country, he could not see why the noble Earl should wish to exempt Scotland from its operation. He was willing, by a measure of this nature, to give relief to that extent, but to that extent only, which appeared to be necessary. But the present measure went far beyond that; because it went to give to every person, no matter of what religious creed, who preferred an affirmation to an oath, the opportunity of taking the former. That, he maintained, was giving relief to a much greater extent than the evil required. Although he admitted, that the bill had been much improved in Committee, still, if a vote were taken on the subject, he should vote against it.

The Earl of *Haddington* said, if this measure were found necessary for Scotland, he should not object to it. But he thought it would be extremely hard to pass it, when no communication had been received from Scotland on the subject.

Lord *Ashburton* said, that he was not aware that this bill had been called for by any of the judges, nor were their Lordships acquainted with the opinions of magistrates, or of chairmen of quarter sessions on the subject. Considering how little their Lordships knew of it, and the late period at which it had been presented to their attention, he thought, that no great inconvenience would follow if it were deferred till next Session; and he therefore moved, that it be committed that day six months.

Lord *Denman* said, that if their Lordships were prepared to say, that men should not be allowed to give evidence on account of their religious opinions, they would accede to the proposition of the noble Lord; but he should certainly take the sense of the House on the subject. He proposed, that they should now go into Committee, and, after any alterations which might be deemed necessary had been made in it, that, on the third reading, their Lordships should express their opinion on the merits of the measure as a whole. He entreated their Lordships to deal with the bill upon the general principles which it contained, and not let it be thrown out in this unexpected manner, after the exertions he had made, at great inconvenience to himself, to remove all the objections which had been urged against the measure. He asked their Lordships to pass this bill, as the means of avoiding the suppression of truth and the exclusion of evidence which could not otherwise be obtained. The parties for whose relief the bill was designed, were prepared to give evidence, if they might be allowed to do so, without a violation of their conscientious scruples. The experiment had been already made in the case of Quakers, and others, with infinite advantage. The Quakers, the Moravians, and the Separatists, were now at liberty to come into a court of justice, and say, "I am a Quaker, or a Moravian, or a Separatist," and to give their evidence without an oath. It was supposed, that persons would not be afraid to affirm what they would be afraid to swear; but he would maintain, that no man that would deceive as a witness on affirmation, would hesitate to deceive on oath. He had pointed out a great public evil, and he had also pointed out a simple and general remedy. Under these circumstances, he objected to further delay; and he should persevere therefore with his motion, that the bill be now committed.

Lord *Ashburton* said, that if it would not be inconvenient to the noble and learned Lord to attend on a future occasion, as he collected from what the noble and learned Lord had said, it would certainly be convenient for the House to see the bill in its most perfect shape, and then to express an opinion upon it. He would not enter into an argument upon the general question, but he must say, that if any alteration were to be made in the present law at all, he would much rather do away with oaths altogether, and substitute some solemn declaration. He did not see, however, how this question of oaths, being a burthen upon men's consciences, could be treated, except upon the most extensive grounds. It affected the highest as well as the lowest; it touched the coronation oath, and the oath of allegiance to the Sovereign. However, with their Lordships' permission, he would withdraw his amendment, and let the bill pass through Committee.

The Duke of *Wellington* said, that it was perfectly true, that on a former occasion he had expressed an opinion that a bill of this nature might be, with propriety, applied to certain persons who had been Quakers, Moravians, or Separatists, but who had separated themselves from those classes, while they still had this feeling with regard to an oath. But he never thought of extending the privilege to all mankind. He must remark, that the judges of the land had not given an opinion in favour of this bill, and the judges, who were in the constant habit of hearing evidence, ought to be the persons, above all others, who were competent to form an opinion upon its merits. He would certainly vote against the bill, unless it were known that it was the opinion of the judges of the land that the bill ought to pass; because, on such a subject, his opinion would be governed by theirs. A noble Lord, connected with Scotland, had expressed a desire to have the opinion of the judges of Scotland on the subject; and another noble Lord, connected with Ireland, had stated a wish to be made acquainted with the sentiments of the Irish judges on this question. It was, indeed, a question connected with the administration of justice, upon which the judges were more competent to form an opinion than any other persons. For his own part he would not, before he knew the opinion of the judges of this country, give his assent to a measure which might deprive justice of its main foundation—its truth.

Lord *Denman* was extremely sorry to trouble their Lordships so often, but he had communicated on the subject of his bill with all the noble Lords in that House who filled, or who had filled, judicial situations; and with one exception, Lord Wynford, who had some doubts, they were all favourable to the principle of the measure. He had not entirely neglected, therefore, to ascertain what were the opinions of those who might be supposed competent to form a correct judgment on this question. If, however, the noble Duke contended that this bill ought to be submitted to the judges at large, and that its fate should rest upon their decision, that, he apprehended, was a novelty in the practice of legislation. For his own part, he contended that their Lordships, who exercised a presiding care over justice—and he called upon them to do so as a matter of duty—were bound to decide whether the persons to whom this bill related, should or should not, be kept out of the pale of the law. He did not exactly know in what situation the House now stood. He had understood the noble Lord to say, that he would withdraw his motion; but the noble Duke said, that he would oppose the bill. Having, however, taken up the bill from a sense of public duty, he felt that it was a duty to the public not to abandon it; and he should therefore persevere in his motion, that the bill be now committed.

Lord *Brougham* submitted, that the House was bound, out of respect to the Select Committee to whom the bill had been referred, to allow the bill to be considered in a Committee of the whole House. This course would be much the more convenient, and would not, in the least, damage the opposition to the bill. He should therefore suggest, that without further delay, the bill should go through Committee. Perhaps something would be done in Committee, which might remove the objections now entertained to the bill.

Their Lordships went into Committee.

The Earl of *Haddington* rose to move, as an amendment on clause 1,—first, that its provisions should not extend to Scotland. In that country, an oath was administered in the most solemn manner. It was administered by the judge who presided, amid profound silence, and each individual, holding up his right hand to heaven, swore by the Almighty himself, and as he should answer to God at the great day of judgment. The people of that country had a most profound veneration for an oath. He was, however, sorry to learn that false swearing had of late become more common in Scotland than it had been; and he was apprehensive that the affirmation would be taken advantage of by all persons in Scotland who were unwilling or immoral witnesses, who would be afraid to take that oath, but had not that moral feeling which told them that the essence of an oath lay in its truth.

Amendment agreed to.

Bill went through the Committee, and was reported.

MUNICIPAL CORPORATIONS (IRELAND).] On the Order of the Day for the Committee on the Municipal Corporations (Ireland) Bill being read,

Lord *Lyndhurst* said, that he had been requested by several noble Lords on his side of the House, to submit to the consideration of their Lordships, on going into Committee on the bill, certain material and important amendments, and he thought it would be most convenient in this stage of the proceeding, and before going into Committee, both from the nature of the measure, and the character of those amendments, that he should now generally state their nature, in order, that their Lordships might view them in connexion one with the other, and be better able to judge of their propriety, when the amendments came on successively in Committee. He was perfectly sensible of the demands generally upon their Lordships' time, and at this period of the claims upon their Lordships' hospitality, and he therefore assured the House, that in what he was about to state, he would endeavour to compress that which he had to communicate within the narrowest possible compass. His noble Friend (the Duke of Wellington), in the last Session of Parliament, had stated to their Lordships, that he conceived, from the prospect of a bill for the settlement of Irish tithes being probably passed, and also from the circumstance that it was probable that a bill for the purpose of granting relief to the poor in Ireland, would likewise be passed into a law, that a very considerable portion of the difficulties of the measure now under their Lordships' consideration would, by the passing of the two bills to which he had adverted, be removed. The noble Viscount, at the head of her Majesty's Government at that time, expressed his satisfaction at the communication then made by the noble Duke, but, at the same time, took occasion to state to their Lordships, that he did not distinctly see what connexion there was between the question of tithes, and the question of granting Municipal Corporations to Ireland. He believed, that if the noble Viscount did not see the connexion, the noble Viscount was the only individual in the House who did not. For several years, the subject of Irish tithes had created great agitation in Ireland, where persons, from time to time, had been most active in their opposition to them; and it was considered, by every person acquainted with the history of Ireland, that the Municipal Corporations established in that country were, for the most part, so established, to protect the Protestant religion and the Protestant Church, in that part of the United Kingdom. And it was also considered by his noble Friend (the Duke of Wellington), and by him, to be of great importance that these barriers of protection should not be removed, and that it was even of still more importance, that in removing those barriers (if at all), corporations of a different character should not be established, until at least the important question of Irish tithes should be set at rest. He imagined that his noble Friend felt this when he made the remarks which the noble Viscount opposite on the occasion in question had adverted to. Now, at the present moment, their Lordships had the prospect, that the question with respect to tithes in Ireland, would come to some settlement; and with respect to the other measure, which had been mentioned by his noble Friend—he meant the Poor Relief Bill for Ireland, a measure which connected itself with the subject in a very important way—he presumed he might consider it as passed. In order to establish corporations in Ireland, in which he and others would be disposed to place confidence, it was necessary to have a secure and substantial qualification, and it was idle to talk of a qualification of 10*l.* value, unless there was something devised to put that value to the test. When he said it was idle to talk of a 10*l.* value, without some test, he need only refer their Lordships to the evidence taken before the select committee of the other House of Parliament, on the subject of fictitious votes, to show how little reliance could be placed on a qualification of that description, unless it was marked and checked by something else, and therefore it had no doubt been considered by his noble Friend (the Duke of Wellington) that the Irish Poor-law Bill established a system of rating in that country, which would afford a sufficient check and test of the amount of the qualification, and give a security to this country and to the people of Ireland, that the qualification should not be merely nominal, but should answer the purposes intended. Now, these two great measures to which he had alluded—the Irish Tithe Bill, and the Irish Poor Relief Bill—though not actually passed, were now in progress. With regard to one of these bills, he had expressed his opinion some time since, and he had seen nothing in its progress to induce him to alter those opinions: but when he had found they were but little consistent with those entertained by the majority of the House, he did not now think it necessary further to press them upon their Lordships. He, therefore, would say nothing further on that measure, except that it gave the test of rating, which could be well applied to the Irish Municipal Corporation Bill now under their Lordships' consideration, and gave the security of a good and substantial qualification. These were the only general observations which he intended to make, and he now therefore came at once to the statement of the amendments which it was his intention to submit to the House; and in doing so, he should not go out of his way to state a single fact or circumstance, except only such as were necessary to render the amendments intelligible. Now, in the first place, it would be found, that the bill had two schedules, A. and B. Schedule A contained a list of eleven cities and towns, each of which contained, not only a considerable, but a very extensive population; it would be found, also, that every one of them had already corporations possessing large amounts of property. There was no intention, therefore, on his, (Lord Lyndhurst's) side of the House, to make any exception whatever in granting corporations to the cities and towns enumerated in schedule A, according to the conditions ultimately to be settled in the bill. But when their lordships came to schedule B, they would find a numerous list of towns of a very different class and character from those contained in schedule A; and that it was so considered by the framers of the bill was manifest, from the circumstance of those towns being inserted in a separate and distinct schedule. The towns in schedule B differed from those in schedule A, not only in population, but also in the fact, that very few of them possessed property to any amount; indeed, many of them possessed no property whatever, and it had occurred to him, and to other noble Lords, that it would be unjust to force on them corporations, which, under all the provisions contained in this bill, could not be imposed without being followed by very heavy charges. It was on this account he thought that corporations ought not, by the operation of this bill, to be imposed on those towns, but that it should be left to the inhabitants of the towns themselves to apply, if they thought proper, to the Crown, for the purpose of having charters granted to them, corresponding in form with the provisions of this bill. For the purpose of doing this, it was intended to propose, by way of amendment, that if the majority of the rated inhabitants holding property to the amount to be named in the bill thought proper to apply to the Crown for charters corresponding with those which would be conferred by this bill, it should be optional in the Crown to grant such charters. He, and noble Lords with whom he acted, thought also, that a certain time should be limited, within which such application should be made, and if, at the expiration of that time, no application was made, that then the present existing corporations in those towns should cease and terminate, and that the management of their pecuniary affairs, and the performance of other necessary duties to be provided for, should be vested in commissioners, not to be appointed by the Crown, or in the terms of the former bill, but to be elected by the majority of those who, under this bill, would be entitled to vote in the election of corporate officers, if a corporation had been granted. These were the first amendments which it was his intention to propose, and he did not think, nor had he reason to expect, on the part of the noble Viscount at the head of Her Majesty's Government, that any objection would be made to these proposals. The reason why he thought so was, because these propositions were a mere repetition of those made in the other House of Parliament, and had not been objected to at the time, though finally they were not adopted, from the circumstance of more material amendments having been rejected by the other House. Passing that over, he now came to the second and more material amendment—that which related to qualification, and which was in fact the only essential amendment in the bill. He had to propose that the qualification in Ireland should be similar to that which had been adopted for Scotland—viz. the occupancy of a house of the annual value of 10*l*. He had already said it would be idle to do nothing further than to say, that every person occupying a house of the annual value of 10*l*. should have the right of voting, because it was known, that such a qualification would be illusory, as shown in the evidence taken before the select committee on fictitious votes. He would not go into any detail of that evidence, because most of their Lordships had either read it or had been informed by other means of its nature and character. He, therefore, would only select the evidence of one witness, Mr. Long, of the city of Cork, and he rather referred to the evidence of that gentleman because it was the evidence of a person beyond all exception, inasmuch as not only was he not a Conservative, but of the politics of Her Majesty's present Government. From his testimony it appeared that to intitle a person to vote for corporate officers in the city of Cork he must pay taxes upon a house to the value of 5*l*. and upwards, and that a large number, indeed a large multitude of persons, for the purpose of avoiding the payment of those imposts and municipal duties, declared upon their oaths that their property was under the value of 5*l*. and yet these same persons afterwards registered as 10*l*. householders, in order to enable them to vote in the election of Members to serve in Parliament; so that when the payment of money was concerned the property was sworn to be under the value of 5*l*., but when it came to the registration to vote, the same property was sworn to be of the value of 10*l*. This it appeared from the evidence, occurred in innumerable instances, and cases had occurred of this description — persons rated at more than 5*l*. had appealed against the rate; the appeal had been allowed, and the rate reduced below 5*l*. and yet those very persons had afterwards registered out of the same property as 10*l*. householders. What reliance, then, was to be placed on the qualification under this bill, unless some test was applied as to the value of the house? Again there was a large class of persons possessing property under the value of 10*l*. who gained considerable advantages with regard to Excise licences, and upwards of 200 persons had obtained licences because their houses were stated to be under 5*l*. value; and yet of 211 individuals who had so obtained licences, 92 had registered as 10*l.* householders in order to get the Parliamentary franchise. He would not go further into details; he only mentioned these circumstances as instances of which an abundance might be found in the mass of evidence taken before the committee to which he had alluded. Therefore it was, that he contended that some test was necessary, and that the only test for real security was the test of rating, in which a pecuniary interest was involved,— there was the interest to avoid being rated too high: he therefore knew no better test, and he should propose to limit the qualification, not to a house of 10*l.* value merely, but of 10*l.* value as proved by the rating. Then there still remained another question—viz., what should be the rate and what the amount of rating. A *boná fide* 10*l.* value was what he contended ought to be the qualification; but then he had to inquire what was a house of 10*l.* value. He held a house of 10*l.* value to be a house that would give to the landlord a 10*l.* rent, the landlord paying all such charges as were necessary to enable him to command such a rent. He did not mean the value of the repairs in any year, but the average of the repairs necessary to enable the landlord to command a rent of 10*l.* An article was valued by the price it would sell for; so he would value a house by the rent it would let for, deducting that which might be necessary to keep the premises, so as to fetch that rent. He apprehended therefore that he stated it clearly and fairly, when he said, that the test must show that the qualification was a house which, when let to a tenant year by year, the tenant paying the usual charges, would bring the landlord 10*l.* in the shape of rent, after he had paid the average charges necessary to keep that house in repair. He hoped he made himself understood, for this was the principal, the basis of the whole of his amendments. Now, he proposed to check the value by the rating, and it still remained to consider the nature of the rating, and to see if the value under it corresponded with the definition of rating which he had given. Now a bill had been passed two or three years ago with respect to rating in England, and under that bill the estimate of value corresponded with the description he had given to their Lordships. He alluded to Mr. Poulett Scrope's bill, and that measure, as worked under the authority of the Poor-law Commissioners, took the value thus—viz., what a tenement would let for from year to year, the tenant paying the usual charges, and deducting from that rent the amount of those repairs and insurances which were paid by the landlord, and which enabled him to command the rent. But there was still another proposition to be taken into account, and that was the rating under the Irish Poor Relief Bill, which was worded differently from the bill to which he had referred. He would not go into details, because it was difficult clearly to communicate them; but the result was this:—that the results of the rating under the Poor Relief Bill were in substance precisely the same as under Mr. Poulett Scrope's bill; therefore with the rating under the Poor Relief Bill the clear yearly value of the tenement could be accurately ascertained. If he had made himself intelligible, there was only one remaining point, but it was a most material and important point, and one on which the whole question turned. In England the Parliamentary franchise was fixed at the yearly value of 10*l.* In Ireland it was the same, and in Scotland the same, and 10*l.* also in Scotland was the municipal franchise. That principle had not been adopted with respect to the municipal franchise in England, but that he left out of the account. Now, in the application of the Parliamentary franchise in England, the revising barristers have never, except in one or two instances, deducted for the landlord's repairs; the consequence had been, that the value of a 10*l.* tenement in England was less than the clear annual value to which he had referred. He did not think the revising barristers had done right, but, however, in Ireland the uniform practice had been to throw the items for repairs and insurances in favour of the franchise. Now, what had been the arguments used in another place? Why, it had been said, "Will you raise the value in Ireland higher than that which is practically the value in England?" He would not stand up in favour of any such a proposition; but he maintained, that they must take the practical rating here and apply it to Ireland, and, therefore, what he proposed was to make the estimate of the value in Ireland correspond with that of England in this way—he would add to the rated value the amount of the landlord's repairs and insurances, as stated on the face of the rate, and he should say, that the 10*l.* value would be measured by the aggregate of those three sums, and thus it was demonstrable to anybody who had considered this bill, that the value in Ireland would correspond with the practical value here in this country. He did not know whether he had conveyed his meaning clearly, for it required the most minute inspection, and a vast deal of consideration, of the various bills to which he had alluded, to understand the point; but he was satisfied, that any noble Lord who would take the trouble to devote a careful attention to those bills, would find the result to be such as he had stated. He had now, perhaps, better read the terms of his amendment in this respect. He proposed first to raise the amount of the qualification to 10*l.* Next, to provide the manner in which that 10*l.* value was to be measured. The first question, therefore, would be, would their Lordships accede to raise the value to 10*l* ; and the next point would be, whether or not the House was of opinion that the mode in which he proposed to take the value was a correct and proper mode. The clause, after fixing the value at 10*l.*, would run on to enact, that " such yearly value be determined in the manner following, that is to say, that it should be composed of the net annual value rated to the relief of the poor, of the amount of the sum of the landlord's repairs, and paid for insurances, as estimated and stated in such rates." Their Lordships would, of course, be aware, that by an amendment moved by a noble Friend of his, there was a schedule in the Poor Relief (Ireland) Bill defining the form of the rating, and that in one column there was the rated value, and in another, the estimated amount of landlord's repairs, and in a third, the amount of insurance, so that the matter would not be left *in ambiguo*, for the Poor-law Commissioners under the bill would appoint their own valuers; the rating would be under their directions; and, therefore, the persons who would have to decide upon the qualification would have no other duty to discharge than to take and add together the three sums to which he had referred. [Lord *Brougham:* Will you read your clause again.] He would state its purport again. The amendment would provide, that the yearly value of 10*l.* would be ascertained, estimated, and determined in this manner: that the persons exercising the qualification would take the amount of the rating of the tenement, and to that amount of rating add what appeared in one column as the estimate for landlords' repairs, and from the third column the amount for insurances, and if those three sums amounted to 10*l.*, it would constitute a tenement of the clear annual value of 10*l.*, which would entitle the party to vote. There would thus be no room for fraud, for he should provide, that the revising or assistant barrister should sit with the magistrates of the county at the revision, and that they should decide on the validity or otherwise of the qualification. Repeating what he had already stated, he contended, that the result of this arrangement would be to make the valuation in Ireland correspond with what the revising barristers in England had decided was the test of value. In short, it would make the valuation under the Irish Municipal Corporation Bill correspond with the valuation for the Parliamentary franchise in England. These were the amendments which he meant to propose, and in doing so he begged to be considered as the mere organ to submit them to the House. They did not originate with him alone—they were the result of much consideration, and he had been requested (and it was impossible that he could refuse) to submit them for their Lordships' consideration. There was, however, another amendment which it was also his intention to move, with reference to trustees. There were in Ireland many charities which had been endowed for Protestant purposes, and he intended to propose an amendment to the effect, that none but Protestants should be concerned in the administration of those trusts. He should also propose, that for the maintenance of the peace of those towns and boroughs, and for all purposes of police, the constabulary shall be employed as in London and elsewhere; for that purpose he should move, that the clause relating to watchmen and a watch-rate should be expunged from the bill. Again, there was another alteration in the bill which he thought essential—he meant as to the boundaries of the corporate towns. There was a bill on this subject now in the other House of Parliament, founded on the report of the Commissioners. He did not think it right to take the chance of that bill being passed into a law, and, therefore, he meant, in a schedule, to set out the boundaries as stated in the report of the Boundary Commissioners, and, as he believed the bill in the other House corresponded, with one exception only, to that report, there would be no objection to that amendment. Their Lordships would also feel, that it would be necessary to provide for the discharge of the various duties in, and the management of property belonging to, towns now corporate, and to which corporations would not be granted under this bill as amended, according to his plan, and for that purpose he proposed to vest those duties in commissioners, to be elected in the manner he had already pointed out. The House would scarcely be aware, from this statement, what a variety of details these alterations would embrace; the points themselves were very simple, but the alterations were of a most extensive character; and what he would now suggest was, that the House should enter now upon the first amendment—namely, as to the number of towns to which the bill is to apply, and afterwards to enter upon the question of the qualification, and then that the amendments consequent upon these changes should be printed. He, therefore, did not object now to going into Committee. He believed, that he had kept the promise he had made at the outset, and had not attempted to deviate fromthat which he considered necessary to show the nature of the amendments. When in Committee, he should move the first amendment to which he had called their Lordships' attention.

Viscount *Gort* observed, that as the noble and learned Lord who had just sat down had said, that no person on his side of the House had any objection to schedule A of the bill, he rose to state his opposition to it. It grieved him much to differ on this question from his noble Friend the noble Duke near him (the Duke of Wellington), and from his noble and learned Friend who had last addressed the House; and it was with great pain and reluctance, that he rose to oppose their view of the subject. His noble Friends appeared to him to be reduced to this dilemma, that they must either admit and confess, that the view taken by them when this matter was last debated was erroneous—that the fears and apprehensions they entertained of this bill being passed into a law were idle and futile—that the eloquence then displayed, was only a shadow for them to grapple with, or else they must admit, that Ireland was now in a different situation, from that she held when this measure was last under the consideration of the House. With regard to the present state of Ireland, he would only adopt the opinion expressed by the noble Duke near him at the commencement of the present session. The noble Duke, too, said, that, bad as Ireland was at that period, it was now in an infinitely worse condition; and, therefore, if this bill was dangerous last year, it must be doubly dangerous at the present moment. But now his noble and learned Friend (Lord Lyndhurst) came forward with a kind of compromise and said, that the large towns should have municipal corporations, and that the small towns should be excluded. Why, the whole danger of these municipal corporations would be in the large towns, many of which were counties within themselves, enjoying separate jurisdictions, with extensive patronage and large estates to dispose of. He could not believe his noble and learned Friend to be serious, when he thought, that the objects of the Tithe Bill and the Poor Relief Bill justified the dereliction of principle which his noble Friend had just avowed. Look at the effects of this bill in large towns. By the charter of the city of Limerick the Mayor was constituted the principle judge of assize, and must of necessity at present be approved of by the Lord-lieutenant and the Privy Council before he could act, but there was no such provision in this bill, and the great probability was, that a Roman Catholic, or what he thought still worse, a Radical Protestant, might come to be Mayor; the sheriffs would be the same, and as a matter of course the juries also. What chance, then, would a Protestant have of getting possession of his property by an action of ejectment, for they would turn round and say, that the treaty of Limerick had been forfeited? But he might be told, that an appeal would lie to this House. He, however, was not sure their Lordships' appellate jurisdiction would long survive, for they were granting concession after concession, the last step of the ladder would be reached by this bill, and the wall of the constitution would be thrown down and the repeal of the union brought about by this aid. He must ask their Lordships if they were prepared to legislate with the sword over their heads, and Mr. O'Connell and his mob assembled on the Curragh for the purpose of coercing them. Why was a different principle adopted in legislating for Canada, and in legislating for Ireland? In Canada the constitution had been taken out of the hands of the rebel Catholics, and placed in those of the Protestants, while indirectly the reverse course was pursued by this bill. He wished the House, at least, to be consistent. He did not desire to give the upper hand in Ireland, to either the one party or the other, but admitted as it had been by his noble and learned Friend, that corporations in Ireland, had been established to protect the Protestant religion in that country, why should the power be given to the Roman Catholics, as would be the case under this bill? He repeated, that he desired, that neither should have the ascendancy, but would rather, that the present corporations, should, as last session had been proposed, be abolished altogether and thrown into the hands of the Crown. With these views he called upon his noble and learned Friend, to withdraw the proposition he had just made, and resume that fine manly tone of resistance, which last year he had exhibited against this bill.

Viscount *Melbourne* said, that nothing could have been more fair and candid than the course which had been taken by the noble and learned Lord opposite: It was impossible, that the noble and learned Lord could have executed the task which had devolved upon him, in a more clear and dispassionate manner. He believed, that in referring back to what had taken place last session, and in adverting to what had fallen from the noble Duke opposite, and from him, the noble and learned Lord had correctly stated both the expressions and the import of the observations which both had made. It was not his intention now to go back, to ascertain whether he were right, or whether he were wrong, in the observations he had then offered, because it was unnecessary to advert to by-gone differences, as there seemed to be some disposition, to come to a general agreement on the whole subject. The noble and learned Lord had stated exactly the amendments which he meant to propose. With respect to the first amendment, and as to the alterations in respect of the towns specified in the second schedule of the bill, he would not go into them further than to say, that it appeared to him, that a great number of those towns were of sufficient magnitude and population to require to be governed by that which was admitted to be best for such purposes—he meant a corporate body; and with respect to leaving it to the population of the other lesser towns to apply for charters of incorporation, he must observe, that it would not be the same thing to them to grant them at once, or to leave the matter to be asked and applied for. There might be many reasons why a charter would not be asked, there were many matters which might stand in the way of an application, and on the other hand, it would be more beneficial to them that the charter should be granted in the first instance. But the great and most material amendment propounded by the noble and learned Lord, was that which had reference to an alteration of the qualification. As it at present stood in the bill, the qualification was fixed at a *5l.* house, exclusive of charges which the noble and learned Lord threw in and joined with his *10l.* qualification. Now, he presumed they all had the same object in view, that of giving municipal corporations fairly, and in such manner, as would give satisfaction and contentment to all parties; that they should not give amongst a great body of inhabitants a corporation either of an oligarchical or an aristocratic character; that the power should not be placed in a few hands, which, so far from giving satisfaction, would only lead to a renewal, a re-opening, and a re-agitation of this question. Meaning, therefore, on all sides to settle this subject, the plan to be pursued, he apprehended, should be that which really would be satisfactory, and all this would depend on the nature of the qualification, the number admitted, and the number excluded. If the number admitted was small, no satisfaction or settlement would follow. The noble and learned Lord admitted, that the qualification in Ireland ought not to be higher than it was in England. Now, he would take leave to ask, whether, considering the relative situation of the two countries, their relative condition as to wealth and poverty, it was really fair, that the qualification should be of the same value? It ought to be considered how far the same qualification that suited a wealthy country was applicable to a poor country. He would not, however, discuss the matter further until the House went into Committee, and the amendment came regularly under consideration. Those amendments, involving rents and rates, and value, were rather puzzling, and it was not very easy to steer clearly through them, until details were arrived at, as they would be in Committee. Then it certainly would be matter for serious consideration, whether the qualification as sent up from the other House of Parliament, and as it stood now in the bill, was not the best that could be devised, and whether it would not be both wise and prudent to adhere to it.

The Earl of *Wicklow* said, it was most gratifying to him to see that the differences of opinion which had existed on the subject, were now, in so great a measure, removed. From what had transpired here now, and elsewhere formerly, he presumed, that the point of difference was narrowed to the question of franchise. That being the case he should be exceedingly sorry if the present Session were allowed to terminate without such an arrangement of the subject as would insure to Ireland the benefits of municipal reform. Not having heard the proposals intended to be made until he heard them to-night, it was possible he might have misunderstood his noble and learned Friend; but if he were not mistaken, there appeared to be no great difference between the opinions of his noble and learned Friend, and those he entertained on this subject. He held that the establishment of a *5l.* franchise would, in itself, be monstrous, and in that the Government must acquiesce, when they, in framing the Poor-law Bill, provided that a person possessed of so small a property as a *5l.* value, was of so low a description as to be entitled to be freed from the payment of all rates under that bill. Ministers having acted so, was it possible that they would now, in attempting to carry this bill, require that the *5l.* franchise should be maintained? From everything that had taken place elsewhere, as well as from the good sense of the noble Lords opposite, he was led to hope, that they would not make a stand upon this point. The only question which remained as to this bill was, how the 10*l.* qualification was to be formed. He confessed, that what he considered a *bonâ fide* 10*l.* qualification, which was the same as that which qualified persons to vote for Members of Parliament, was not to be retained with the addition of the rating under the Poor-law Bill, because the effect of that would be to raise the franchise higher than it was in England and Scotland. It was admitted by all who had taken part in the discussions on this subject, that such a qualification should not be required. If the same description of qualification which existed as regarded the voters under the Reform Bill in Ireland should be adopted with the additional taxation under the Poor-law Bill, it would raise the qualification higher than any one party wished it to be. His noble and learned Friend had shown, that was not what he wanted, but that, as it appeared to him, the rating to the poor, the amount of repairs and insurance, should be added to make up the qualification; but he feared, that it would be difficult to arrive at a perfect knowledge of what the landlords paid for repairs and insurances. He confessed, that he preferred what he considered to be a *bonâ fide* qualification, a fixed amount, because, then there would be no difficulty in arriving at the reasons for registering individuals. He wished to see a qualification laid down, about which there could be no mistake; that was to say, if it were nominally below 10*l.*, and if such an amount was capable of being made out by those expenses on the premises, whether paid by landlord or tenant, which must be paid, and also the rating under the Poor-law Bill, it would amount to a *bonâ fide* qualification. He agreed with his noble and learned Friend, that the number of towns mentioned in Schedules A and B was too large, but he was also of opinion that the number in Schedule A alone was too small. His anxious wish had been to see all those towns which at the time of the union were considered to be of sufficient size to return Members to Parliament, should at once have Municipal Corporations given to them, and that all the other towns in Schedule B should have the power of applying for the institution of corporations with the consent of a majority of their inhabitants. Upon that point he imagined that there could be very little difference of opinion among their Lordships, and should that point be so settled, there would be then little or no difference on the further arrangements of the bill. He must say, that he felt some objection to one proposition which he understood his noble and learned Friend to make, namely, that for depriving the municipal bodies of the power of appointing their own constables and watch. He trusted the noble Viscount would allow the amendments to be printed before any further proceedings took place, that their Lordships might have a fair opportunity of considering them, and he also trusted, that their Lordships would come to the consideration of the bill with a desire to bring the question to a satisfactory settlement.

Lord *Portman* suggested, that the net annual value being ascertained, certain deductions should be made from it. In considering whether the sum was 8*l.* 5*s.*, or 10*l.*, it was most important that the House should recollect that the object was to get rid of this question, that it might not be perpetually brought before their Lordships. He begged to remind their Lordships that the franchise laid down by the 9th of George 4th, which was an Irish act relating to the lighting and watching of the towns of Ireland, every 5*l.* occupier was a rated inhabitant. If they decided, that only a certain number of towns should have charters under this bill, and that certain other towns should have them by the choice of a majority of the inhabitants, they should take care that they did not hold out inducements to those towns to prefer the 9th of George 4th, to that bill which they were about to pass, a preference which their Lordships could scarcely wish to see given.

Lord *Lyndhurst* had thought it better, before going into Committee, to state his general views of the subject, and he now thought it would be better to go into Committee at once, than to discuss the points which would still remain to be contested in Committee.

House went into Committee.

On Clause 4,

Lord Lyndhurst proposed to insert, after the words, " in any borough," the words " in the said Schedule A."

The Marquess of *Lansdowne* inquired, whether the noble and learned Lord intended to have two distinct Schedules? He apprehended, that the first thing to be decided was, the manner in which the towns were to be enfranchised, and next, how many?

Lord *Lyndhurst* said, the sole question was, whether a portion, or the whole of the towns in the two Schedules was to be taken. The amendment, it was clear, had reference to Schedule A, which was at the end of the bill, and it would be competent for any noble Lord to take any town out of it, or to put others into it. His object was, that some of the towns in Schedule B, should not have corporations forced upon them, as it were, by this bill.

Amendment agreed to.

On Clause 6,

Lord *Lyndhurst* proposed to strike out the words, " rated to the relief of the poor," for the purpose of adding after the words " of the —" the words " yearly value of not less than 10*l.*, to be ascertained and determined as hereinafter mentioned." The operative words he proposed were—" and that such yearly value be ascertained and determined in manner following and not otherwise; that is to say, such value shall be composed of the net annual value of the premises occupied by the persons, and rated as they are hereby required under an act passed for the relief of the poor in the present Session of Parliament, and of the landlord's repairs and insurance, as estimated and stated in such rate."

Viscount *Melbourne* should certainly take the sense of the House on that amendment.

Lord *Lyndhurst* said, the landlord was obliged to keep his tenements in a necessary state of repair, in order to command a rent for them. The principle was the principle of rating laid down in Poulett Scrope's bill, and that principle would be the test of value under the Irish Poor-law bill. He merely proposed to make the value in Ireland conform to that which was the practical value in England. Whatever dues were paid by either landlord or tenant, the question was, what was the value of the property let by the landlord? What did it fetch in the market? The rent paid by the tenant might include all rates and taxes which were actually paid by the landlord, and all other expenses were included in the qualification, which, according to the phrase of Poulett Scrope's bill, were necessary to enable the landlord to command the rent.

The Marquess of *Lansdowne* thought the plan would operate very unequally.

Lord *Lyndhurst* said, that it was proposed that the franchise should be 10*l.*, estimated and tested as it was in England, and placed on the same footing as the parliamentary franchise in England. What more could be required?

Lord *Plunkett* said, the bill, in its original form, would give the franchise to a large class of persons in Ireland, who ought to be in possession of it; not to a mob as they had been styled, but to a class of not unrespectable persons. He considered that the 5*l.* franchise was not too low, and he should therefore support the bill in the shape in which it had come up from the other House.

Their Lordships divided on the amendment:—Contents 96; Not Contents 36:—Majority 60.

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Reay
Middleton
Sondes
Boston
Bagot
Camden (Earl of Brecknock)
Southampton
Grantley
Carteret
Montagu
Kenyon
Braybroke
Gage
Stewart of Garlies (Earl of Galloway)
Saltersford (Courtoun)
Calthorpe
Rolle
Bolton
Wodehouse
Northwick
Dunsany
Carbery
Clonbrock
Alvanley
Redesdale
Ellenborongh
Sandys
Dalhousie
Meldrum (Marquess of Huntley)
Colchester
Glenlyon
Ravensworth
Rayleigh
Downes
Bexley.
Penshurst (Viscount Strangford)
Wharncliffe
Lyndhurst
Melrose (Earl of Haddington)
Cowley
Heytesbury
Clanwilliam
De Lisle
Ashburton

BISHOPS.
London
Bangor
Carlisle
Glocester

Paired off.

CONTENT.	NOT CONTENT.
St. David's (Bishop of)	Hereford (Bishop of)
Sheffield	Albemarle
Eglintoun	Belhaven
Clare	Westminster
Skelmersdale	Barham
Churchill	Shrewsbury
Lonsdale	Carlisle
Thomond	Meath
Tankerville	De Mauley
Moray	Dacre
Jersey	Suffield
De Grey	Clifford
Aylesford	Radnor
Kinnoull	Gardner
Hereford	Crewe
Camden	Sutherland
Manners	Denman
Aberdeen	Breadalbane
Fitzgerald	Byron
Mansfield	Conyngham
Buccleuch	Clanricarde
Limerick	Howden
Maryborough	Roxburghe
Leven	Kinnaird
Beauchamp	Sligo
Selkirk	Rosebery
Brownlow	Burlington
Malmesbury	Dormer
Belmore	Strafford
Carnarvon	Petre
Mount Edgecumbe	Wellesley
Macclesfield	Zetland
Powis	Essex
Sidmouth	Bateman
Ormonde	Derry (Bishop of)
Sydney	Cowper
Forester	Uxbridge
Bradford	Wrottesley
Canning	Brougham
Lothian	Argyll
Howe	Segrave
Falmouth	Lilford
Stuart de Rothesay	Howard de Walden
Paulett	Dinorben
Beaufort	Ducie

Viscount *Melbourne* stated, that as he considered the opinion of the House to have been decidedly expressed by the late division, it was not his intention to occupy their Lordships' time by taking any farther division in regard to the qualification.

The Marquess of *Lansdowne* concurred with his noble Friend near him, in the inexpediency of taking any further division in regard to the qualification; but even admitting, that the qualification in the bill, as sent up from the other House was not exactly that which ought to be adopted, still he considered, that that which the noble and learned Lord had proposed to substitute was not the best, and that the mode proposed for ascertaining the value was liable to serious objections, and would act very unequally.

Clause as amended agreed to.

Lord *Lyndhurst* then said, that as his two principal amendments had been disposed of, he would propose to print the others, and to take the discussion on them on the consideration of the report. Such, he conceived to be the most advisable course, as sufficient time would then be given to allow those amendments to be fully considered by their Lordships.

The Marquess of *Lansdowne* begged to ask the noble and learned Lord what he proposed to do with the schedules.

Lord *Lyndhurst* said, he proposed to retain schedule A and omit schedule B, and it would then be competent for any noble Lord to propose to add to or to take from schedule A such towns as they might see fit. The question would then be opened as to what towns the provisions of the bill should be exended to. By the qualification he had proposed a constituency would be given to some of the towns of not less than 16,000 persons, and in none would the constituency be less than about 700, whereas in many of the towns in England the constituency was so low as from 200 to 300. He would state the authority on which that calculation was made when they discussed the question on the bringing up of the report. His next amendment related to trustees, and in regard to trustees he proposed, that no Catholic should be appointed a trustee for Protestant purposes.

The Marquess of *Lansdowne* saw no objection to the amendment of the noble and learned Lord, and the only question about which there could be any difficulty was, what were to be considered "Protestant purposes."

Lord *Lyndhurst* said, his next amendment related to the watch. He proposed to omit all the clauses relating to watching and to make the constabulary force the only police force in the different towns to which the operation of the bill would extend, thus placing the appointment and control of the police in the hands of the Government. Then, again, he proposed, that the clauses of the Boundary Bill should be introduced into a schedule of the bill, instead of having a separate bill on that subject. Such were the chief amendments which he intended to propose, and, if their Lordships agreed with him in opinion, he should move, that they be printed.

Motion agreed to.

The House resumed, bill, with amendments, reported.

HOUSE OF COMMONS,

Thursday, July 12, 1838.

MINUTES.] Bill. Read a second time:—Public Records. Petitions presented. By Lord G. SOMERSET, from Cotton Spinners and Factory Proprietors, and by Lord ASHLEY, from 500 Women connected with the Cotton Factories, for a Limitation of the Hours of Labour.

COAL TRADE.] Mr. *Labouchere* moved the further consideration of the Report on the Coal Trade (Port of London) Bill.

Lord *G. Somerset* then rose to move, that it be an instruction to the Committee to make provision for the repeal of such parts of the Acts 3 and 4 William 4th., cap. 36 (the Birmingham Railway Act,) 4 and 5 William 4th., cap. 38 (Southampton Railway Act), 5 and 6 William 4th., cap. 107 (Great Western Railway Act), 6 and 7 William 4th., cap. 75 (the London and Dover, or South-eastern Railway Act), 6 and 7 William 4th., cap. 103 (London and Cambridge, or Northern and Eastern Railway Act), 6 and 7 William 4th., cap. 106 (London and Norwich, or Eastern Counties Railway Act), 6 and 7th William 4th., cap. 108 (Thames Haven Railway Act), 1 Vict., cap. 119 (Brighton Railway Act) as imposes a duty of one shilling and a penny per ton, to be paid to the corporation of the city of London, on coals carried on the several railways, sanctioned by those acts respectively, nearer to London than certain points specified in those several acts, and which points vary in distance from the limits of the city of London, from about fifteen to eighteen miles. As this was the first occasion on which the question had been fairly brought before the House since these clauses had been introduced, the House must affirm the principle, that the city of London dues should be rateable at 1*s*. 1*d*. per ton on all coals carried within a certain circumference of the city. But how were these clauses introduced? Without imputing anything to the city of London, he was bound to say, that they were much more careful of what they supposed to be their rights than the House of Commons was of the interests of the public. He might be met by the fact, that the companies had agreed to the clauses; but they all knew, that the companies, when they were applying for their bill, would do much to gain support, and would agree to almost anything to obviate such opposition as that of the city of London. So lax had they been in the performance of their duty, that he did not believe, the attention of the House was ever once called to these clauses. He had no doubt it would be said, why should sea-borne coals be subject to a tax from which inland was exempted? The last time the question was before the House, was, he believed, in 1810. But there was a vast difference between the situation of the question then and now. Then there was a duty of 4*s.* per ton upon all sea-borne coals, and to protect that duty, inland coals were almost prohibited. The question was now in a very different situation, for there was now no duty to protect, and the duty of 1*s.* 1*d.* per ton made all the difference between the possibility of sending up inland coals with a profit, or with none. He might be met by the assertion, that the quantity would be so small, so inconsiderable, that it was not worth discussing. Then he would say, if it was so, it surely was not worth the opposition of the city. The only way to meet that combination, which operated most injuriously against the lower classes, and which was contrary to all principles of supply and demand, was to agree to his amendment. He could not help thinking, that it would be worth the while of the coal-owners in the north to co-operate with him on this object, and to make arrangements with the several railway companies, by which the supply of coals would be conveyed to the London market much more expeditiously and cheaply than by sea. It was the duty of the gentlemen residing in and about London also to assist him in this object; because it was quite clear, that so long as this tax of 1*s.* 1*d.* per ton was continued, the railroad proprietors would consider it a complete failure. There was one other point to which he would refer. The hon. Baronet (the Member for the City of London), had stated, that the object was, to continue the revenue derivable from coals to the corporation of London, to the time originally fixed (1858), but he had neglected to point out, that the revenue had so enormously increased within the last few years, that it was expected to expire in the year 1852. He hoped the House, under all the circumstances, would support his proposition; for, if not, they would let slip the only opportunity which would be afforded them, of placing the matter in its proper position, and of breaking down a monopoly which was most injurious to the best interests of the community.

Mr. *Hume* seconded the motion. These Acts had been introduced without the knowledge of the country, or the knowledge of the House, and without due notice.

Mr. *Labouchere* could assure the House, that nothing would give him greater pleasure than to see a bill pass that House, the tendency of which would be to reduce the price of coals; but that must be done by fair and just means. He would not go into the regulations of the coal-owners in the north, nor would he attempt to justify them; but if they were illegal, an Act of Parliament ought to be introduced to counteract those combinations, and let that act be fairly passed. If the present bill was not passed, the city would not lose anything, because the city would immediately revert to their ancient dues—to dues levied in an infinitely more inconvenient manner to the public than those that were levied by this bill. Looking at every part of the bill, it must be taken as making a good bargain for the public. He felt bound, in justice to the city, and to all the great interests that were concerned, to resist the proposal made as strenuously as he could. It would be most improper to do anything which would tend to injure the shipping interest, for the sake of giving a partial benefit to another interest. Under all the circumstances, he hoped the House would not consent to the motion of the noble Lord. He believed it would cast a most serious impediment in the way of the bill passing at all—a bill which was calculated to confer so great a benefit on the community. There was one provision in the bill, to which he must for a moment refer. The city, under the present law, possessed the right of levying 1*s.* 1*d.* for every ton of coals brought within a certain distance. Two circumstances had happened, which deserved the serious attention of the House; one was, that coals were becoming more an article of export than they were formerly; the other, that steam-boat navigation was going on with a spirit of enterprise, which became every day more daring and successful. It was of the utmost consequence that London should be able to enter into competition with Liverpool, Bristol, and the other great ports of the country, upon perfectly fair and equal terms. It was of the utmost consequence that ships exporting coals from London for the purposes of commerce, and that steam-boats, taking coals from London, should not be subject to this duty. He therefore urged the expediency and propriety of the city not standing on any rights they possessed, in order to defeat the wishes of the House. The city had already, most liberally, consented to allow a drawback on every ton of coals within a certain limitation, and that was no slight sacrifice, for it amounted to about 5,000*l.* a year. Under all the circumstances, he called upon the House not to support the proposition of the noble Lord, which would be attended with the greatest possible danger to the bill.

Mr. *Warburton* agreed, in a great measure with the sentiments of his hon. Friend; at the same time, he should wish the bill to pass into a law, subject to the clauses proposed by the noble Lord opposite. A more scandalous monoply and a more scandalous combination never existed than that which affected the coal trade. He would now state to the House certain facts which he did not see in the report of the Committee of this year, but which had been partly elicited by the evidence brought before the Committee of 1836. The President of the Board of Trade had introduced a bill exempting coal exported from the greater part of the duty to which it was subjected, and the consequence of this was, that a greatly increased trade was going on with the north of England for the exportation of coals to foreign ports. If the owners of coal merely demanded the same price from the English consumer as they did from the foreign one, there could be no room for complaint. But that was not the rule they adopted. They sold their coals at 1*s.* per ton less than they would supply any for home consumption. That was not the worst of their conduct. There was a small sort of coal, called Bean Coal, which was fitted for lime-burners, engines, and steam-boats. The coal-owners sold that coal to the foreigner at 8*s.* 6*d.* the Newcastle chaldron, while they actually refused to sell a ton of it to the English consumer at less than double that price, so that the foreign consumer got it at a cheaper rate than the Englishman. Was there ever such a want of public spirit—such selfishness—that in order to drive the manufacturers of England and the steam-boats to use the large coal, they did that which was eminently calculated to promote the growth of foreign manufacturers. Was there ever such a monopoly—it was really infamous, and he hoped Parliament would adopt such regulations as would put the trade upon the principle of fair and open competition.

Mr. *Bell* acknowledged, that it was with extreme surprise, that he had heard the proposition of his noble Friend, who was usually very anxious to do justice to all parties. He heard, with much surprise, the proposition of his noble Friend, because he had always found, that his noble Friend upon former occasions, when he had any matter on hand, showed the greatest disposition to do equal justice to all parties. In this instance he thought he had a fair right to complain that his noble Friend was disposed to treat a large portion of his constituents hardly. The great injustice of repealing the duty on inland coal, and leaving it in force as regards seaborne coal, was so apparent, on general principles, as not, in his opinion, to entitle it to the serious consideration of the Legislature. If, however, his noble Friend persevered in his motion, he hoped it would be dealt with in the way in which it deserved. It was, he conceived, a sufficient answer to the proposition of his noble Friend that, if carried, it would have the effect of giving a bonus to one set of traders over their competitors in the same market, which was contrary to sound policy and fair legislation. It should be borne in mind, in discussing this question, that the inland coal was charged as well as the sea-borne coal, with the 1,000,000*l.* for the improvements of the metropolis, and, if his noble Friend's proposition were carried, it would have the effect of throwing the whole charge on the sea-borne coal, which would be an act of great injustice. His noble Friend and other hon. Members had alluded to monopoly and combination, Now he could take upon himself to say that nothing of the sort existed. He understood monopoly to mean the privilege of selling confined to a few. Now the privilege of supplying London and other places was not confined to the coal-owners of Northumberland and Durham; it was open to the coal-owners of Wales, Scotland, Yorkshire, and other places. The reason why the coal-owners of the North had the preference was, because they deal in a better article, and at a cheaper rate, as the following returns proved:—Wear Coals, 1st class, per ton, 11*s.* 6*d.*; 2d class, 9*s.* 6*d.*; 3d class, 7*s.* 6*d.* Tyne coals, 1st class, per ton, 10*s.* 6*d.*; 2d class, 8*s.*; 3d class, 6*s.* This is on shipboard. Tees coals average between the two prices. Scotch coal—Elgin's Wand, 12*s.* per ton; Parrot, 21*s.* per ton. Welsh coal—Swansea, 14*s.* per ton; Milford, 19*s.* 6*d.* per ton; Merthyr, 11*s.* per ton. Yorkshire from 8*s.* 6*d.* to 10*s.* 6*d.*; Staffordshire, 11*s.* 2*d.* per ton. Combination he took to mean the union of parties for the sake of raising prices. The effect of the regulation in the North had not produced that effect, coals having fallen there in price 2*s.* and 2*s.* 6*d.* the ton within a few years, and the rise in London had been a mere trifle. Stewart's had increased 11*d.* between 1836 and 1837; Hetton's 1*s.* in the same period, and Newmart's 17*d.* per ton. Neither had the regulation had the effect of limiting the supply to London. It had increased 750,000 tons between 1806 and 1827, and 250,000 tons between 1836 and 1837; and so far from the regulation being general, there were fourteen or sixteen collieries that did not belong to it at all. Perhaps hon. Members were not aware that the coal-owner received very little more for the expense and risk of working a ton of coals than the coal merchant received for conveying them to the consumer's cellar from the ship. The charge was as follows;—Cost of coals on shipboard, 10*s.* 6*d.*; charges in London, city dues, 2*s.* 8*d.*; freight, 9*s.* 4*d.*; London coal merchant, 10*s.*; total, 1*l.* 12*s.* 6*d.* per ton to the consumer. He trusted he had said enough to vindicate the coal-owners from the charge of monoply and combination; enough, also, to induce the House to reject the motion of his noble Friend. Although he had a great respect for the city authorities, yet, for one, he could not give his consent to a proposition that would have the effect of giving them the power of ordering a collier below Gravesend or into dock after the first market day if she had not disposed of her cargo, because such a proceeding would be very prejudicial to the interest of all those connected with the coal trade of the north of England. Any such enactment would press very hard upon the colliers when it is considered that vessels laden with grain and other traders would still be suffered to remain a month waiting for a favourable market, as was now the case. It should be borne in mind, that within a very few years the number of colliers suffered to remain in the Pool had been reduced from 170 to 146, in consequence of complaints of the crowded state of the river. Moreover, several tiers of these vessels had been removed from their berths to make entrances to the London and St. Katharine's Docks, the entrance to the one requiring a radius of 600, the other of 300 feet. To this the individuals connected with the coal trade submitted without a murmur, and he thought, therefore, that it was very hard that they should be still further interfered with. For one, he was of opinion, that neither the Legislature nor the City of London ought to interfere with individuals in the disposal of their private property, but that they should be left to make such arrangements as they should, in their own wisdom, deem most beneficial to their interests. Although he entertained those opinions, yet he would support the original motion rather than the amendment.

Sir *Robert Peel* could not agree to the proposition of his noble Friend, as it involved a dangerous principle—viz., that of interfering with places which had natural and physical advantages, in order to bring them down to an equality with those which were less favoured. Every place ought to get the fair advantage of its local position; and to say, that goods brought from one place by sea should be subject to an impost, while those brought by land, from places not having the same facilities were exempted, was most unfair. The county of Essex, for instance, from its proximity to the London market, had great facilities for the disposal of its corn. But, would any one say, that the corn brought from Essex should be subjected to additional duties in order to bring it down to the level of other places more distant and less favoured? He agreed with the hon. Member for Bridport (Mr. Warburton) that there was a practical monopoly upon the part of the coal-owners, and that they were anxious and eager to get as much as they could. He was only surprised at the hon. Gentleman's indignation at the circumstance, and his disappointment at not finding disinterestedness and patriotism in a coal-hole. He, for one, never expected to find more patriotism in a coal-owner *quà* coal-owner than he did in a horse-dealer. He never expected anything but great selfishness from the coal-owners. He had foreseen the consequences of permitting foreigners to purchase their coal duty free several years since. He foresaw the injury it would be likely to create as regarded competition with foreign manufacturers, and it was the fault of that House that an exception had not been made with regard to that particular article, and thereby securing to England the elements of future prosperity. He acquitted the coal-owners of all blame, but he could not pass upon them those panegyrics which his hon. Friend, the coal-owner behind him, had complimented them with. Why, Quintus Curtius himself, if he was a coal-owner, would extort as much as he could. As the right hon. Gentleman had observed, they had legislated much too hastily upon the subject of railways. It was right that inland coals should pay as high a duty as those carried by sea; but the City had no right to demand more than a fair proportion. It was their duty to say to the City, "We will reduce the tax on inland coals, but then we require you to diminish the duty on sea-borne coal in similar proportion." He for one, could not consent that sea-borne coal should be charged with a duty while inland coal was allowed to pass free. The City, in his opinion, had a vested interest in this matter, which he was willing to protect to the uttermost. It had shown a great example of liberality in appropriating so large a proportion of these funds for the protection and convenience of trade. Although he could not concur in the proposal of his noble Friend, he would at the same time express a strong opinion, that it was impossible that anything could be more advantageous to the City than to make every reduction they could in the price of coals. The facility of procuring fuel was one of the greatest advantages which could be conferred upon the labouring classes of the community. It was most important to facilitate the delivery of coals. The metropolis was gradually becoming a great manufacturing town; and this, coupled with the improvements in steam navigation, rendered it most important that the price of coals should be reduced to the very lowest scale possible. The improvement of this great city he considered an object most worthy the application of its funds; and he thought, therefore, it was a legitimate application of part of this duty to the construction of a Royal Exchange. He should give his cordial support to the gradual reduction of the coal duty. He should be happy if there were none at all. He thought that would be the proper way of meeting the monopoly. But he would never consent to an attempt to secure to the consumers greater advantages than they ought justly to possess. He was of opinion it would be setting a most dangerous precedent to interfere with the property of other persons—not that he denied the existence of the monopoly—not that he did not believe in the existence of the combination, and he was quite ready to put an end to it by every legitimate means, but, at the same time, he would resort to no means not reconcilable with the principles of justice.

Mr. *Pease* said, the coal-owners of the north did not object to competition on every ground. Till a few years ago coals from Yorkshire, Wales and Scotland, were gradually increasing in quantity, but the reduction in the price of coal from Durham and Northumberland had produced the practical monopoly which the country wished—the cheapest and the best. The coal trade in Durham and Northumberland had not, nevertheless, been a fair paying trade for the last ten years. He spoke feelingly on the question. He did not think the coal-owners of the north had much to do with it. The coals might rise to-morrow a shilling—the Staffordshire coals might then come into the market, and the market would be opened. After having heard all the evidence, he considered the best way would be to take the duty off, and let all parties stand fair.

Lord *Teignmouth* could not support the motion of the noble Lord, because it appeared to him to be a partial way of meeting a great question, which was, whether this coal-tax should be continued or not. He thought considerable delusion existed on the subject of the coal-tax, and if that tax were removed, the consumers would not derive much benefit; but that if any party was benefitted, it would be the coal proprietor. He should be extremely sorry to gain a little popularity with his constituents by voting for a proposition that was manifestly unjust.

Mr. *W. Attwood* should vote against the proposition of the noble Lord on the ground that the result of it would be, if carried, to give a bonus to the land-borne coal at the expense of the sea-borne coal.

Lord *G. Somerset* said, the sense of the House did not appear to him to be so much in favour of his proposition as to justify the House in dividing on it.

Motion withdrawn.

The House went into Committee.

On the 13th Clause,

Mr. *Hume* moved the omission of the last paragraph—"Provided also that no such regulations which apply exclusively to the coal trade shall prevent any vessel from remaining with the cargo thereof unsold within the port of London for a period not exceeding fifteen days." One great nuisance connected with the coal trade was, the great number of vessels allowed to remain in the river, frequently for several weeks. The committee discussed the remedy to meet this complaint, and it was agreed, that powers should be given to the committee of the city to make such regulations as would remove the complaints now existing of the great crowd of colliers that interfered so much with the navigation of the river. In order to protect the interest of the public against the errors of the city authorities, it was proposed, that all the regulations should be made by the navigation committee, but could not be acted upon without the sanction of the Board of trade. If the proviso were retained, the city authorities could not remove any vessel unless they had remained in the river more than fifteen days. Any one at all acquainted with the state of the river, must be well aware that such a length of time was too long, for it was much incommoded, and the authorities ought to have power to remove them sooner. He thought the proviso would stultify the whole powers given by the bill. He hoped the House would concur in the propriety of leaving the whole of the regulations in the hands of the city authorities, and he moved the omission of the proviso.

Mr. *A. Chapman* denied, that the river was in the state represented, for, owing to the great exertions of the harbour-masters, the river, from the Lower Pool to St. Katharine's docks, was clear for ships. If the object of the hon. Member's proposition was, that the vessels should not be allowed to remain in the river any longer than fifteen days, unless below Blackwall, he (Mr. Chapman) would not object to it. But he was of opinion, that any compulsory measure by which the ship-owners would be obliged to send their vessels into certain docks, entailing upon them additional expense, would inevitably throw that additional expense upon the consumer.

Mr. *Labouchere* objected to the House making those regulations which might be much more conveniently left to the corporation of the city of London, assisted by the Board of Trade. The hon. Member opposite objected to these vessels being sent into collier docks, and he (Mr. Labouchere) quite agreed with him, that it would be inconvenient to send them in, but that was not the question before the House. As a general principle he objected to the limitation which these regulations imposed, which should be more properly left to the discretion of the corporation of the city of London and the Board of Trade.

Mr. *Pease* complained of the unfair and harsh manner in which hundreds of thousands of ship-owners from the north were treated, by placing them in a position from which all other ship-owners were exempted. It was too much now to call upon the House to strike out the only clause which afforded a protection to the ship-owners. After a certain period they were to be driven out of the river, whether they had succeeded in selling their cargoes or not. The ship-owners in the north had full confidence in the fairness of the Board of Trade, but they had not confidence that the city would, on all occasions, administer those regulations with fairness.

Mr. *Hume* agreed with the hon. Member, that if the provision was applied to the coal-owners alone, it would be highly improper; but he wished the regulations to be applied to all vessels frequenting the port of London.

Lord *G. Somerset* contended, that the city, under the supervision of the Board of Trade, should have perfect freedom of action. He was anxious, that this clause should stand part of the bill; but he could not agree, that this proviso was to be considered as having the sanction of the Committee. The proposition of the hon. Member for Kilkenny was, to leave the question unfettered, and he hoped the hon. Member would succeed.

Mr. *Bell* said, within the last few years the number of colliers in the river allowed to stand had been reduced from 170 to 146, and lately four or five tiers had been removed. The coal-owners of the north had agreed to this, and they ought not to be further fettered. Neither the legislature nor the city had any right to interfere with them in the disposal of their private property; they ought to be suffered to use their own discretion in making regulations beneficial to themselves and to the public.

Mr. *Poulett Thomson* said, that they had agreed to give to the corporation of London, subject to the supervision of the Board of Trade, the power of making by-laws, and the question was, whether they should limit that power to a particular period? He presumed it had been considered for the advantage of the coal trade of the metropolis, and of the navigation of the river, that that power should be given; and if it were given in one thing he saw no reason why it should not be given in another, or why it should be limited. If they conferred on the city the power of making by-laws, because they considered it inexpedient, that that House should legislate by by-laws, it would be the height of inconsistency, if they acted on that principle, to limit the power by this proviso. He would not offer any opinion as to the time, he would not say whether he thought fifteen days, or thirteen, or ten sufficient, and his reason for wishing to exclude the proviso was, because they could not ascertain now, much less for the future, what number of days ought to be applied. If they were to adopt this proviso, they would effectually bar themselves from obtaining any advantage of a regulation, that should fix less than fifteen days. He did not believe, if it were left to the corporation of London, that they would make any regulation, that would be inexpedient, and if they did, the Board of Trade would not consent to enforce it. He thought, upon the whole, that it would be better that power should be given in this instance, as well as in the others, to the city authorities to make what regulations they should think proper.

Mr. *A. White* said, that if the shipowner was not allowed fifteen days for the sale of the cargo he would be put in a worse condition than the merchant who imported corn or any other produce into this river. It would be making a very improper and invidious distinction between shipowners.

Mr. *Hume* thought, the navigation committee ought to have the power of fixing the time, lest the parties should make use of the time for the purpose of combining for the raising the price of coals.

Mr. Alderman *Thompson* considered this a question which should be decided according to the extent of confidence the House had in the navigation committee. He for one should state, that, having been a Member of that committee, and having taken very great pains to have certain regulations carried into effect, but not having been able to succeed, he had no confidence whatever in their being fit persons to make by-laws on so important a question. He had been long convinced, that the way in which the navigation committee exercised their power was a most unwise mode of exercising it, and that it called loudly for redress. He had not confidence enough in the navigation committee to allow them to deal with so large and important a part of the shipping frequenting the port of London. Why were they to make laws for colliers, excluding all other vessels? The tendency of the amendment of the hon. Member for Kilkenny was to drive the colliers into the docks. There was a project for constructing such docks, and no doubt if they should be found useful and convenient the colliers would enter them, but he protested against compelling them.

The Committee divided on the question, that the proviso remain part of the clause:—Ayes 49; Noes 96: Majority 47.

List of the AYES.

Alsager, Captain
Barrington, Lord
Blackburne, I.
Blackett, C.
Blair, J.
Blandford, Marq. of
Bowes, J.
Bramston, T. W.
Broadley, H.
Bruges, W. H.
Buller, Sir J. Y.
Chapman, A.
Darby, G.
D'Eyncourt, C. T.
Dottin, A. R.
Duke, Sir J.
Dungannon, Lord
Eastnor, Lord
Elliot, hon. J. E.
Fitzroy, hon. H.
Gladstone, W. E.
Gordon, hon. Capt.
Goulburn, H.
Graham, Sir J.
Grimsditch, T.
Hardinge, Sir H.
Heathcote, G. J.
Hinde, J. H.
Hodgson, R.
Holmes, W.
Hope, hon. C.
Hope, G. W.

Hughes, W. B.
Hurt, F.
Ingestrie, Lord
Kemble, H.
Manners, Lord C. S.
Meynell, Capt.
Ord, W.
Palmer, G.
Praed, W. M.
Richards, R.
Rolleston, L.
Rose, Sir G.
Style, Sir C.
Thomson, Alderman
Waddington, H.
White, A.
Wyndham, W.

TELLERS

Bell, M.
Pease, J.

List of the NOES.

Acland, T. D.
Aglionby, H. A.
Ainsworth, P.
Archbold, R.
Attwood, W.
Bainbridge, E. T.
Baines, E.
Barnard, E. G.
Barry, G. S.
Beamish, F. B.
Bewes, T.
Blake, M. J.
Blake, W. J.
Bridgeman, H.
Brodie, W. B.
Brotherton, J.
Bryan, G.
Callaghan, D.
Campbell, Sir J.
Cayley, E. S.
Clay, W.
Clements, Lord
Crawford, W.
Curry, W.
Divett, E.
Douglas, Sir C.
Dundas, hon. T.
Easthope, J.
Eaton, R. J.
Egerton, W. T.
Ellis, J.
Farnham, E. B.
Finch, F.
Gibson, T.
Gillon, W. D.
Grant, F. W.
Grattan, H.
Grote, G.
Hawes, B.
Hawkins, J. H.
Hector, C. J.
Hill, Lord A. M. C.
Hobhouse, T. B.
Hodges, T. L.
Howard, F. J.
Howard, P. H.
Hutton, R.
James, W.
Kinnaird, A. F.
Labouchere, H.
Langdale, hon. C.
Marshall, W.
Maule, hon. F.
Melgund, Lord
Mildmay, P. St. J.
Miles, P. W. S.
Morpeth, Viscount
Morris, D.
Murray, J. A.
Nicholl, J.
O'Connell, J.
O'Connell, M.
O'Ferrall, R. M.
Paget, F.
Palmer, C. F.
Parnell, Sir H.
Pattison, J.
Pechell, Captain
Perceval, G. J.
Polhill, F.
Power, J.
Price, Sir R.
Rich, H.
Rundle, J.
Salwey, Colonel
Sanford, E.
Somerset, Lord G.
Somerville, Sir W. M.
Stewart, James
Stuart, Lord J.
Strutt, E.
Tancred, H. W.
Teignmouth, Lord
Thomson, C. P.
Thornley, T.
Troubridge, Sir E. T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Wallace, R.
Warburton, H.
Wilbraham, G.
Williams, W.
Wilshere, W.
Wood, C.
Wood, T.
Yates, J. A.

TELLERS.

Hume, J.
Parker, J.

Proviso struck out.
Clause agreed to.
The House resumed.
Bill with amendments reported.

BANKRUPTS' ESTATES (SCOTLAND) BILL.] The *Lord Advocate* moved, that the further consideration of the Bankrupts' Estates (Scotland) Bill be deferred till Saturday.

Sir *W. Rae* wished to know whether it were intended to proceed with a bill which made such an immense change in the law at this period of the Session? Here was a bill which had taken four or five years to prepare, and in which there were not less than 145 clauses, and at this period of the Session it could not be expected to pass both Houses. It was intended to throw the blame on the House of Lords of rejecting the bill, and he did not think that was a fair position in which to place that House. He trusted, that it would be withdrawn until the next Session, and then brought fairly before the House. He moved, that it be further considered that day month.

The *Lord Advocate* was rather surprised at the tone of his right hon. Friend. No doubt this bill had been before the House for five years, but similar bills had been before the House twelve or fifteen years, and it was extremely difficult to obviate the various objections made to the bill. If there was any ground for further deliberation he had no objection to give the opportunity. If his right hon. Friend had adopted a different tone, he might, perhaps, have been disposed to accede to his suggestions, but under the present circumstances he could not.

The House divided on the original motion: Ayes 62; Noes 34: Majority 28.

List of the AYES.

Archbold, R.
Baines, E.
Barnard, E. G.
Barry, G. S.
Beamish, F. B.
Bernal, R.
Bewes, T.
Blake, M. J.
Blake, W. J.
Bridgeman, H.
Brotherton, J.
Bryan, G.
Callaghan, D.
Clements, Lord
Divett, E.
Duke, Sir J.
Elliot, hon. J. E.
Fergusson, R. C.
Finch, F.
Gillon, W. D.
Grattan, H.
Hawes, B.
Hector, C. J.
Hill, Lord A. M. C.
Hobhouse, T. B.
Howard, F. J.
Howard, P. H.
Hutton, R.
James, W.
Langdale, hon. C.
Macnamara, W.
Melgund, Lord
Morris, D.
O'Connell, J.
O'Ferrall, R. M.
Palmer, C. F.
Parker, J.
Parrott, J.
Pattison, J.
Pechell, Captain

Power, J.
Rich, H.
Rundle, J.
Sanford, E. A.
Somerville, Sir W. M.
Stanley, E. J.
Stuart, Lord J.
Strutt, E.
Style, Sir C.
Tancred, H. W.
Thornely, T.
Troubridge, Sir E. T.
Turner, E.
Turner, W.
Vigors, N. A.
Villiers, C. P.
Wallace, R.
Warburton, H.
White, A.
Wilbraham, G.
Williams, W.

TELLERS.

Murray, J. A.
Maule, F.

List of the NOES.

Barrington, Lord
Blair, J.
Blandford, Marq. of
Bruges, W. H. L.
Buller, Sir J. Y.
Dalrymple, Sir A.
Darby, G.
Dungannon, Lord
Egerton, W. T.
Freemantle, Sir T.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grimsditch, T.
Hodgson, F.
Hodgson, R.
Holmes, W.
Hope, G. W.
Hughes, W. B.
Hurt, F.
Mackenzie, T.
Miles, P. W. S.
Nicholl, J.
Palmer, G.
Parker, R. T.
Perceval, G. J.
Polhill, F.
Rolleston, L.
Rose, Sir G.
Sinclair, Sir G.
Somerset, Lord G.
Wyndham, W.

TELLERS.

Rae, Sir W.
Gordon, Captain

Consideration of the report postponed till Saturday.

PARLIAMENTARY BURGHS (SCOTLAND.)] Mr. *F. Maule* moved, that the House do resolve itself into a Committee on the Parliamentary Burghs (Scotland) Bill.

Sir *W. Rae* moved, that the bill be postponed till that day three months.

Mr. *F. Maule* said, it was most important this bill should pass, to enable the Parliamentary burghs to make provision for their self-government. He knew, that Scotland fully appreciated the justice of this bill, and no objection to it had proceeded from that country.

Captain *Gordon* said, it was a mistake to suppose there was no objection to the bill, because he had received a petition from Leith, which he had not as yet an opportunity of presenting, strongly deprecating the bill.

The House divided on the original motion: Ayes 56; Noes 36: Majority 20.

List of the AYES.

Archbold, R.
Baines, E.
Barnard, E. G.
Barry, G. S.
Beamish, F. B.
Bernal, R.
Bewes, T.
Blake, M. J.
Blake, W.
Bridgeman, H.
Brotherton, J.
Bryan, G.
Bulwer, Sir L.
Callaghan, D.
Corry, hon. H.
Divett, E.
Duke, Sir J.
Dundas, hon. T.
Elliott, hon. J. F.
Finch, F.
Grattan, H.
Hawes, B.
Hector, C. J.
Hindley, C.
Hobhouse, T. B.
Howard, P. H.
Hutton, R.
James, W.
Langdale, hon. C.
Macnamara, Major
Mather, J.
Morpeth, Lord Visct.
Morris, D.
O'Connell, J.
Palmer, C. F.
Parrott, J.
Pattison, J.
Pechell, Captain
Power, J.
Pryme, G.
Rich, H.
Rolfe, Sir R. M.
Sanford, E. A.
Somerville, Sir W. M.
Stanley, E. J.
Stuart, Lord J.
Strutt, E.
Style, Sir C.
Thornley, T.
Troubridge, Sir E. T.
Vigors, N. E.
Wallace, R.
Warburton, H.
White, A.

TELLERS.

Maule, F.
Murray, J. A.

List of the NOES.

Barrington, Viscount
Blackburne, I.
Blair, J.
Blandford, Marq. of
Bramston, T. W.
Broadwood, H.
Bruges, W. H.
Buller, Sir J. Y.
Dalrymple, Sir A.
Darby, G.
Dungannon, Lord
Eastnor, Viscount
Egerton, W. T.
Freemantle, Sir T.
Gladstone, W. E.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grimsditch, T.
Hawkes, T.
Hodgson, F.
Hodgson, R.
Holmes, W.
Hope, hon. C.
Hope, G. W.
Hughes, W. B.
Lockhart, A. M.
Mackenzie, T.
Nicholl, J.
Parker, R. T.
Perceval, G. J.
Polhill, F.
Rose, Sir G.
Sinclair, Sir G.
Somerset, Lord G.
Turner, W.
Wood, T.

TELLERS.

Rae, Sir W.
Gordon, Captain

Bill went through Committee, *pro forma.*

HOUSE OF LORDS,

Friday, July 13, 1838.

MINUTES.] Petitions presented. By the Archbishop of CANTERBURY, from St. Peter's and another parish in the town of Derby, for the Abolition of Pluralities.

HOUSE OF COMMONS,

Friday, July 13, 1838.

MINUTES.] Bills. Read a first time:—Redemption of Land Tax; and Corporations.

Petitions presented. By Mr. BRODIE, from Gosport, praying for an uniform rate of Postage.—By Mr. BAINES, from Leeds, for the Abolition of Idolatrous Worship in India.

FACTORIES. — COUNTING OUT THE HOUSE.] Lord *Ashley* would ask where the noble Lord, (Lord John Russel,) was yesterday, when the Government, of which he was a member, was instrumental in counting out the House? Why had the House been so counted out, within a very few minutes of the period fixed for its reassembling, and when the legitimate number of members would have been forthwith in attendance. By this means, he was again deprived of the opportunity of exposing the most abominable system which had ever disgraced and degraded a civilized nation. The noble Lord opposite and the House knew full well the mode in which this question had been treated. They knew full well how to repeat a phrase which he had used before, and from which he did not shrink; how he had been mocked and deluded. On the 22nd of June last, he had hoped to have an opportunity of making his statement; but the noble Lord had triumphed by the small majority of eight. He had then given a notice three weeks from that period, and had fixed upon a notice-day. Yesterday was the day. The House met by adjournment at 6 o'clock, and no sooner did it meet, than it was proposed that it should be counted, and was counted out. Immediately upon that motion being made, one of the Lords of the Treasury, the hon. Member for Haddington, ran out of the House, and other Members of the Government went into a different lobby. There were other hon. Members present who would bear witness to this statement. He had himself seen the hon. Member for Haddington leave the House, and with him the person who should have last thought of taking such a course. He alluded to the hon. Member for Durham, himself a very large mill-owner, and one of those whom he would have put on his defence. The House was thus counted out before those hon. Members who were listening to the debate in the Lords could have an opportunity of attending. Even as it was, the attendance of members amounted to thirty-seven. He was extremely sorry at being obliged to adopt any extraordinary course to bring on his motion. He should have liked very much to bring it on in a more legitimate way. The noble Lord opposite and the House might think the person who had the honor to introduce this subject to their notice to be himself a very despicable person. But, notwithstanding the treatment he had received from the hands of the Government, the House would allow him to say, that the question was one of paramount importance and magnitude, and that if the attention of the Government were not shortly directed to it, the office of the noble Lord the Secretary of State for the Home Department, however burdensome it might be now, would speedily become a million times more burdensome. He did not ask the House to affirm any new principle. He was simply desirous to lay before the House what he considered an unparalleled state of things, and he wanted the House to say whether they would enforce or repeal the existing law. He held it to be inconsistent both with the character of the House, and with the safety of the empire at large, to leave a law affecting the welfare of 2,000,000 or 3,000,000 human beings in such a state, that no one of its provisions was observed, that it was deliberately and impudently violated every day, and that it was left not only for five years, but was most likely to be left for another year, without a possibility of redress, while they positively refused to hear any statement upon the part of the persons aggrieved. It might be inconsistent in him to move, that the order for going into Committee of supply be taken before any of the other orders of the day, because in doing so he should be moving the supply for the purpose of its being rejected; but he had given notice, that if the order of supply were brought forward, he would move his amendment; and if the order of supply were moved at so late a period that he would not have time to bring forward his amendment, he would then move, that the Committee of supply be adjourned to Monday. He appealed to the House for its support in this matter; and, please God, he was fully determined that this statement should be laid before the Commons of England, when he trusted to obtain a full and fitting answer, and to have something done at last on the subject of this great and crying evil.

Mr. *R. Steuart* said, that whatever blame he had incurred in this matter, he alone was responsible for it, and that he had not seen the hon. Member for Durham at all upon the occasion referred to. He begged, distinctly, to deny, that he had any previous communication with any single member of the Government upon the subject; and the Under Secretary of

State had expressed to him immediately afterwards his deep regret that the House should have been counted out.

Lord *J. Russell* could state nothing about what occurred in the House yesterday, not having been present at the time. He returned to the House a few moments afterwards, with the view of attending the motion of the noble Lord. Nothing would induce him to say, that the noble Lord, in bringing forward his motion, was actuated by any desire to embarrass the Government, or interfere with the other proceedings of the House. On the contrary, he knew the deep interest which the noble Lord took in the factory question, and that in the prosecution of it, he had acted in the most honourable manner. He did think, however, that the noble Lord, in his great anxiety about the question, was apt to overlook the real facts of the case. He had stated to the House, that, one way or another, he was prevented by the Government from making a statement of facts connected with the factory question. Now, the noble Lord must admit, that if he were wrong in postponing the question, he himself was also wrong in not bringing it fully forward when he moved it before the Order of the Day upon Irish Tithes. On the day when the bill stood among the orders of the day, the noble Lord proposed to take it before the Irish Tithe Bill. Surely he had then an opportunity of stating to the House any facts which he thought proper, and no one would have prevented him from doing so. He might also have convinced the House, that his bill ought to have precedence of the Irish Tithe Bill. The House, however, upon the reasons which he adduced, decided against him by a majority of eight, and he now complained of the conduct of that majority. With respect to the interest which the Government, it was said, took in the matter, he must say, that the noble Lord was entirely wrong in supposing, that there was any particular wish or intention on the part of the Government to evade or put off the factory question. If he had understood from the noble Lord before he proposed putting the bill off, that the noble Lord had any particular wish so to do, he (Lord J. Russell) would have considered whether it might not be taken before some other Order of the Day. Neither then, however, nor in the question which the noble Lord put, did he appear to manifest any great anxiety upon the subject. Knowing, then, as he did, the opposition which was growing up against the bill, and the great anxiety there was upon the part of the House to have a bill proposed when there should be time for deliberation, he thought it best the bill should be postponed. The noble Lord had it in his power when the question of supply was moved, to make any statement he pleased on the factory question. He, (Lord J. Russell) had heard from Members upon both sides of the House, considerable apprehensions as to the consequences of raising any excitement at the present moment about the question. The noble Lord took a different view of the matter. All that he wished to say was, that when the noble Lord proposed to bring on his bill before the Irish Tithe Bill, he had an opportunity of making his statement, if he pleased. The noble Lord could not expect that the law would not be violated, but it was satisfactory to know, that by the last reports of the inspectors, the law appeared to be more generally observed.

Mr. *Wallace* could confirm the statement that his hon. Friend, the Member for Falkirk, consulted no one when he moved that the House be counted out.

Mr. *Labouchere* could also add his testimony, that there was not the slightest concert upon the part of the Government to put off the noble Lord's motion. He did not think the noble Lord would require him to produce any witnesses, but if he were to appeal to any one, it would perhaps, be to the Speaker, whom he met shortly after the House was over, when his right hon. Friend expressed his regret, in which he concurred, at there being no House, as it would so much retard the progress of public business. The occurrence, in his belief, was only to be attributed to the natural, and perhaps, not inexcusable indisposition of hon. Members to sit for eight or nine hours in the evening after having sat for four in the day.

Lord *Ashley* considered himself bound strictly to show to the House, reasons why one order should be taken before another. He had endeavoured to do so as well as he was able, but at the same time he had too much regard for the time and feelings of the House to obtrude upon them, and weary them with a variety of minute statements out of place and at an improper time. If he had, upon that occasion, gone into the whole subject fully, the noble Lord would have been the first to call him to order. The noble Lord had stated, that he did not appear to manifest any anxiety upon the subject of the Factory Bill. Now, he would appeal to the House, whether he had not asked the noble Lord questions upon the subject *usque ad nauseam?* He would also appeal to the Under-Secretary of State, whether he did not apply to him not to deceive him upon the subject, but really and fairly to give him an opportunity of discussing the question. The noble Lord was proceeding to animadvert upon the conduct of Government, when he was interrupted by cries of "*Order.*"

The *Speaker* said, the noble Lord's remark was not necessary for the purpose of explanation.

The matter dropped.

PRISONS (ENGLAND).] The House went into Committee on the Prisons (England) Bill.

On Clause 10,

Mr. *Langdale* moved, by way of amendment, a proviso to the effect, that in cases where the number of prisoners in a gaol not belonging to the Established Church, amounted to fifty, an assistant-chaplain should be appointed.

Mr. *F. Maule* thought the proposition not unreasonable.

Sir *C. Knightley* remarked, that if the hon. Gentleman's principles were acted upon in its full extent, there might be as many clergymen in a gaol as there were prisoners.

Mr. *O'Connell* thought, that religious instruction should be provided for prisoners differing in sentiment from the Established Church, where the number might be considered to require it.

Mr. *W. E. Gladstone* could not immediately concur in the principle laid down in the motion. It was one of great importance, not recognised in any legislative enactment, and, he believed, unheard-of in England, though it had been acted upon in Ireland. It was too important to be established in this way, for it must be extended to all workhouses as well as to prisons. Sufficient facilities, he believed, were already given to clergymen of the various denominations to obtain access to the prisoners who coincided with them, for the purpose of religious instruction.

Mr. *F. Maule* declared his intention to support the clause proposed by Mr. Langdale. He put it to hon. Members opposite, whether they would be content to see fifty unfortunate wretches confined in one of our prisons, refusing to attend the ministration of the chaplains of the Established Church, and yet consent to deprive them of the religious advice and consolation which they would derive from the presence of a minister of their own religion? In fixing a limit, you must stop somewhere, and fifty seemed as good a limit as any at which they could stop, seeing that they had already assented to a clause that wherever there were fifty persons incarcerated, professing the faith of the Established Church, there was a necessity to call in the services of a chaplain.

Mr. *G. Palmer* opposed the proposition, because, if they gave up one point after another, it would tend to annihilate the interests of the Established Church.

Mr. *O'Connell* considered the argument of the hon. Member who had spoken last, as one of the most preposterous ones which he had ever heard in the whole course of his life from a well-educated Gentleman. The hon. Member for Newark had told them, that the principle embodied in this clause was a new principle—[Mr. *Gladstone:* In England.] Oh! it was an old principle in Ireland, and as he had been accused—oh, how often!—of crying, as they say, falsely, "Justice for Ireland," he would just try for once how the hon. Gentlemen opposite would relish his raising the cry—oh, how truly!—of "Justice for England." The question, however, was not whether this be a new principle, but whether it be a good principle, and he considered it to be a good principle to instruct every man in the principles of morality according to his own notions of the Christian religion. He considered this clause to be essentially necessary, because, in many gaols where Roman Catholics had been confined, and had demanded the aid of a Roman Catholic chaplain, their demands had been peremptorily refused. Now, such an exercise was a great abuse of power; and if this clause were passed, they would get rid of it altogether.

Mr. *Hume* said, that prisons now were conducted on the principle of reformation. If, therefore, reformation was their object, they could not shut up fifty persons dissenting from the principles of the Established Church without affording them some religious advice and instruction. In voting for this clause, he must confess one change of opinion which he had undergone. Formerly he was opposed, now he was friendly, to the voluntary principle. He would tell the House why he had become this convert. It was, because he had seen, of late years, with the deepest regret, the vexatious, and oppressive, and persecuting conduct of the clergy of the Church of England towards those who differed from them in religious opinion. He repeated the phrase, which seemed so obnoxious to hon. Gentlemen opposite. He was now a voluntary on principle, and what was more, from experience of the opposite principle. There was a species of property in this country, which was generally called Church property. For his own part, he called it public property; and he thought, that it ought to be distributed equally and fairly for the religious instruction of men of all classes, sects, and denominations. He was quite aware, that he could not carry out that principle at present. But the time would yet come—and the hon. Gentlemen opposite knew it—the time would yet come——[*Great cheering from both sides of the House.*]

Mr. *Bernal* (the Chairman) interrupted the hon. Member for Kilkenny, who was entering into subjects not at all connected with the question under debate.

Mr. *Hume* was sent there by his constituents to speak the honest sentiments of his heart, and speak them he would, at every hazard. Personally, he was obliged to the hon. Chairman for his caution, but he was sent there to speak the truth by his constituents, and speak it he would, however obnoxious it might be to the clergy or their supporters. In reply to what had been said by hon. Gentlemen opposite, he would repeat, that the principle which he had laid down, was the only true voluntary principle. The House had cheered, as if they considered his proposition to be clearly monstrous and impracticable; but he had lived for some time in the world, and he had seen other things, deemed equally strange and unlikely to happen, come nevertheless to pass; and he was convinced, old as he was, that he should live to see a great alteration indeed take place in the holding of what was called Church property. If the hon. Gentlemen opposite, acting as they called it in support of the Church, persisted in their old course of oppression and monopoly, he was certain that they would drive public opinion to many acts which it had never yet contemplated. He had heard, from the other side, a great deal about "toleration, toleration." For his own part, "toleration" was a word that he spurned—it was unworthy a free people; what he asked for, and he would be content with nothing less, was equal rights for all classes, sects, and denominations of her Majesty's subjects.

Lord *Stanley* admitted, that this was a question on which it could not be said that there was no difficulty in coming to a decision. If there were in that House, as he supposed there were, many hon. Gentlemen who might have hesitated as to the vote which they ought to give on this motion, he was quite sure, that if they had attached any importance to the observations of the hon. Member for Kilkenny, those observations would have had a tendency to divert them from the support of the proposition which that hon. Member had advocated. He looked, however, to this question, not with reference to the observations of the hon. Member—they scarcely deserved notice—but with reference to its substantial justice and policy. If he thought, that in giving the proposition of support he was doing anything which could place the sects which differed from the Church of England on an equality with her, or if he thought that in supporting that proposition he was placing any, even the smallest, stigma on the Church of England, as a national establishment, no consideration in the world would induce him to support it. But the situation of these unfortunate prisoners was a peculiar situation. They were pa ced in a position in which they were separated from the spiritual control of those to whom they were accustomed to look up for support and consolation, and to which they would have resorted for advice had they been free. In supporting the proposition of the hon. Member opposite, the committee was not called upon to establish any new principle; for hon. Gentlemen admitted, that in Ireland, and he heard no objection to that principle, it was not only expedient, but also just and necessary, that there should be a Roman Catholic chaplain in every gaol. Were hon. Gentlemen, then, adopting a mischievous innovation when they proposed to introduce it into England in all gaols, where, on an average of a certain number of years, there were such a number of Roman Catholics confined as required the undivided attention of a clergyman of their own persuasion? In the very bill then before the House they had already declared that fifty prisoners were enough for a chaplain of the Established Church to attend to; and that if there were more than that number the chaplain should be entitled to an increased salary. How, then, could they reconcile themselves to refrain from giving spiritual instruction according to their mode of belief to fifty Dissenters whom they might find in their gaols? First of all, could they compel the Roman Catholics to attend to the instruction of a clergyman in whose doctrine they did not believe; and secondly, if they did not try the compulsory course, could they ask them to deprive themselves, or would it be right to deprive them, of all religious instruction whatever? Upon the fullest consideration which he had been able to give to this proposition, he was inclined to vote in favour of it. He could not voluntarily lose the opportunity of reclaiming so large a portion of our vicious population, so long as he saw there was the slightest chance of reclaiming them. He, however, thought this clause should be permissive, not compulsory, and he would suggest to the hon. Member who had proposed it whether it would not be better to insert in the enactive parts of it these words "if they shall so think fit."

Mr. *Langdale* was anxious to do everything in his power to meet the wishes of the noble Lord.

Mr. *Estcourt.* This was the introduction of a new principle into the law of England, which, if once admitted, might be attended with the very greatest inconvenience to the interests of the Established Church.

Mr. *Sheil* conceived, that the opinion of the hon. Gentlemen opposite was, that this proposition ought to be granted, provided that the power of appointing these chaplains were accompanied with proper checks. A proposition exactly the same with the present was carried for Ireland when Lord Liverpool was at the head of the Government, when Sir R. Peel was at the head of the Home Department, and when Mr. Goulburn was Secretary to the Lord-lieutenant for Ireland. When the Catholic was out of prison he could go to the priest, but when he was in prison the priest must go to him, else he would be deprived of all opportunity of acting in conformity with his religious belief. The House should at least consent to the free admission of the priest, even to an individual prisoner. The present regulations were tantamount to his exclusion.

Sir *R. Peel* thought it was rather unfortunate that it had not been more distinctly understood that this subject would have been brought under their consideration that day. After the conflicting opinions, too, which they had heard delivered, he thought it would be better if the hon. Gentleman, without making any concessions to the principle, would consent to withdraw the clause upon the understanding that he would bring it forward upon the third reading of the bill. The noble Lord the Secretary of State, who had access to every information on the subject, had been present during a very short period of the discussion, not expecting, perhaps, that so important a subject would have been brought under consideration. Without, therefore, expressing any decided opinion at present, he thought it would be better to reserve it for more serious and deliberate consideration. Even supposing that he entirely coincided in the principle of the hon. Gentleman's clause, he wished to show him that, as it stood at present, it would not answer his purpose. He would first ask him if he meant, that it should be imperative upon the magistrates to appoint chaplains? The words were "that it shall be lawful," &c. Now, according to the construction of some, those words meant that it should be imperative on the magistrates, while others contended that they conferred a discretionary power. It was very important that the hon. Gentleman should determine that point. The hon. Gentleman also made the appointment of chaplains determinable by the circumstance of there having been on the three previous years an average of fifty prisoners. Now, if during one year there happened to be sixty prisoners in the gaol, not Members of the establishment, but professing one faith, he might be disposed to contend for the necessity of providing them with a chaplain. But according to the clause of the hon. Member, if that year happened to be one of the three preceding years, and that upon those three years there was not an average of fifty, there would have been no power to provide a chaplain for the single year during which there were sixty prisoners. It did not depend, therefore, on the number of prisoners requiring religious aid at the time, but upon the fact that in the three preceding years there was an average of fifty. If the principle were good, some temporary provision should certainly be made, and that the hon. Gentleman's clause would not do. He felt strongly that he was now called upon to decide a great question, while he likewise felt that the clause of the hon. Gentleman would do nothing, except as far as principle was concerned, and under the pretence of doing an act of humanity they would be doing nothing but deciding on the principle. He was convinced there were not ten prisons in England to which the principle of the average of three years preceding would apply. By adopting, therefore, the hon. Gentleman's proposition they would be doing no practical good. He certainly thought it would be a violation of the principle of toleration to compel any portion of the prisoners in the gaol to attend any religious ministrations in which they did not believe. He thought, further, that they were bound to afford a perfectly free and unrestrained access, subject to the discipline of the gaol, to the minister belonging to the persuasion of each prisoner. The hon. Gentleman opposite (Mr. Hawes) said, that that was done in some cases, and not in others. He (Sir R. Peel) would read a clause from the law introduced by himself:—"And be it further enacted, that if any prisoner shall be of a religious persuasion different from the established church, the minister of such persuasion, at the special request of such prisoner, shall be allowed to visit him, at proper and reasonable times, and upon such restrictions prescribed by the visiting justices, as shall guard against the introduction of improper persons." He begged to call the attention of the hon. and learned Member for the city of Dublin, however, to the fact, that under that act there had been great collision between the spiritual authorities in Ireland and grand juries. The hon. and learned Gentleman said there should be a Roman Catholic clergyman appointed. Who was to have that appointment? Was it the magistrates who were to have it, or was there to be any *veto* on the subject? If they did not make regulations on that subject, they would have the interference of the bishops. A magistrate might appoint a chaplain, and the Roman catholic bishop might interdict the appointment by saying, "He is not the chaplain I wish for, and I cannot sanction his appointment." If they did not combine with the principle very strict regulations, there would be no end to religious differences. He did not wish to pronounce any decided opinion against the proposition: he merely wished, that it should be postponed, he did not think they were undermining the principles of the establishment if, in the case of gaols, they made provisions which they could not, in other cases, consent to; but he felt strongly, that in introducing this principle for the first time in England, it was absolutely necessary to give the fullest and most mature consideration to the circumstances under which it was to be introduced, and to combine with it such checks as would undoubtedly prevent abuse, and remove all possibility of religious discord arising in the gaols. Under these circumstances, if the hon. Gentleman asked him for his assent to the proposition, he could not give it; if, on the other hand, the hon. Gentleman consented to withdraw it for the present—a proposal which he did not make for the purpose of delay, or from any insuperable objections to the principle—he was ready to give his consent to a proposition involving the principle advocated by the hon. Gentleman, combined with such regulations as should make it perfectly safe.

Mr. *Thornely* read an extract from a report which he said he had received from one of the inspectors of prisons, to the following effect:—of the religious professions of 419 persons confined in the borough gaol of Liverpool in August, 1837, there were 216 Protestants, 174 Roman Catholics, 17 Presbyterians, and the rest of other persuasions. He understood, that in Manchester the Roman Catholics bore at least as great a proportion to the whole population as in Liverpool. He could not, therefore, for a moment hesitate to say, that whenever the hon. Member for Knaresborough brought forward, in any shape, a proposition for giving to those 174 Roman Catholics in the gaol of Liverpool, and to the Catholics similarly placed throughout the country, the advantage of religious consolation from their own ministers, he should have great pleasure in voting with him.

Lord *J. Russell* agreed with the right hon. Baronet, that they should not agree to a clause of that nature without its having been brought in a distinct shape before the House He was of opinion that where there were 50 or a considerable number of Roman Catholics, or persons of the same persuasion, confined in a gaol, they should have religious instruction from a minister of their own communion; but if there were a certain number of prisoners of different persuasions, each wishing to have a favoured minister of their own particular sect, and that such wishes were to be complied with, it would defeat the object of appointing a chaplain for general religious superintendence, which did not belong peculiarly to any denomination of Christians, but to the general religious instruction introduced into the gaol. He would gladly support the principle, if properly guarded, but he hoped the authority and general instruction of chaplains would not be weakened by the introduction of persons who, without any real distinction of religious faith, might catch the earand influence the wishes of the prisoners.

Mr. *Langdale* would consent to the proposition of the right hon. Baronet for withdrawing his proviso for the present.

Clause agreed to.

House resumed, the Committee to sit again on Monday.

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HOUSE OF COMMONS,

Saturday, July 14, 1838.

MINUTES.] Bills. Read a third time:—Prisons (Scotland); Dublin Police.

Petitions presented. By Lord G. LENNOX, from the Licensed Victuallers of Worthing, against the Beer Acts.—By Mr. HUME, from Prisoners in the Court of Queen's Bench, for the Abolition of Imprisonment for Debt.—By Mr. GRATTAN, from Spirit Dealers of Wells, against the licence laws.

SMALL DEBTS—(SCOTLAND.)] Sir *W. Rae* said, he wished to say a few words upon the subject of the Small Debts (Scotland) Bill. He thought he had reason to complain of the conduct of the Under Secretary of State in making it a party question, and summoning the Government Members for the purpose of throwing it out. He had also to complain of a want of courtesy towards himself. He certainly did hope that such means would not have been adopted to throw out upon its third reading a bill which had been brought in and passed through a Committee of the House of Lords, and which would have been of such great benefit to Scotland. The clause for raising the jurisdiction, he expected would be lost, but he was not prepared for the throwing out of the whole bill. The clause had obtained the approval of the House upon two divisions, and therefore he was unwilling to abandon it. He thought, therefore, the course pursued by the hon. Gentleman a most unusual one. It was most unwise to deprive Scotland of the benefit of the bill, merely because he (Sir W. Rae) would not humble himself by withdrawing a particular clause.

Mr. *F. Maule* entreated the indulgence of the House for a few minutes, while he endeavoured to defend himself againstth e charge which had been brought against him by the right hon. Gentleman opposite. He did not think the House would accuse him of allowing party motives to forget the courtesy which was due either to the House or the right hon. Gentleman. There was a length to which courtesy should go, but it ought not to be permitted to triumph over principle. When the bill was in the House a previous Session, as well as at every stage of it since, he stated his objection to the clause. He objected to giving an increased jurisdiction to the justices of the peace, when they had in Scotland as the judge of the inferior court, the sheriff depute, a person brought up to and learned in the law, and always ready to adjudicate. He also told the right hon. Gentleman, that he would take every opportunity of resisting the bill in the House unless he would consent to withdraw or alter the clause, in which case he stated his readiness to support the bill. The right hon. Gentleman was, therefore, wrong in stating, that in throwing out the bill, he had been influenced by party motives, or had been guilty of any want of courtesy towards the right hon. Gentleman himself.

IMPRISONMENT FOR DEBT.] The House resolved in Committee on the Imprisonment for Debt Abolition Bill.

On Clause 86,

Mr. *Sheppard* moved the addition of the words "within the space of three years after the date of the aforesaid discharge," in line 40, in order that the judgment might not take effect beyond that term.

Mr. *Warburton* thought it was hardly worth while to make any amendments on such a miserable abortion of a bill as this. Letthe bill go forth with all its imperfections, and let the responsibility rest with the other House, which had passed, and the Government, which had sanctioned it. He was only induced to consent to the passing of the bill from the conviction that an efficient change would be brought about sooner if this measure were adopted, than if the law were allowed to remain in its present state.

The *Attorney-general* resisted the amendment, as making a very important alteration in the system that now prevailed. That part of the system to which it related, if altered at all, ought to be wholly re-modelled.

Mr. *Harvey* said, it almost seemed from the tone taken by the Attorney-general as if that House had little to do with the bill in the way of deliberation, and must be content to take it as it stood, or not at all. For his part, he confessed, he was not so unfavourable to the bill as the hon. Member for Bridport. It was obviously not a perfect measure; but it made several most important improvements on the present law. If the bill should pass, the fraudulent debtor would no longer have it in his power to set his creditors at defiance, and live in a state of criminal affluence within the walls of a prison, but would be brought before a competent court, and compelled to surrender whatever property he possessed. On the other hand, the creditor would not be allowed, as at present, to keep the debtor in prison for an interminable period, in the indulgence of a spirit of censurable vindictiveness. They were not now, in his opinion, in a condition to discuss the whole law of debtor and creditor, and therefore, although he thought that many useful improvements might be made in it, he was disposed to acquiesce in this bill.

The *Attorney-general* was only anxious not to hazard, by too many amendments, at this late period of the Session, the passing of a measure which all must look upon as extremely beneficial.

Mr. *Hume* wished, that insolvents should be put on the same footing as bankrupts. It was very hard to allow a judgment to hang over an insolvent which would prevent him from ever re-establishing himself in business.

Mr. *Freshfield* objected to the amendment, as causing an inconvenient alteration in the existing law. In the Insolvent Debtors' Court, there were at the present moment between 100,000 and 200,000 judgments, which were liable to be enforced at any time.

The amendment withdrawn, and clause agreed to.

The House resumed, the report to be brought up.

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HOUSE OF LORDS,

Monday, July 16, 1838.

MINUTES.] Bills. Read a second time:—Church Discipline; Qualification of Electors; Sheriffs Courts.—Read a first time:—Royal Exchange; Prisons (Scotland).

Petitions presented. By the Duke of RICHMOND, from Legal Practitioners in the county of Elgin, in favour of the Sheriffs Courts (Scotland) Bill.—By Lord SONDES, from the Operative Conservative Association of Warrington, for the expulsion of Roman Catholics from Parliament.—By the Earl of CARLISLE, from the Church Missionary Society of Carlisle, against Idolatry in India; and from the town of Carlisle, in favour of the Irish Municipal Corporations Bill.—By the Duke of WELLINGTON, from Individuals connected with the Corporation of Cork, not to pass the Irish Municipal Corporations Bill without compensating those affected by it.—By the Earl of WINCHILSEA, from the neighbourhood of Liverpool, and from Alverstoke, against any further Grant of Money to the College of Maynooth.

APPOINTMENT OF MR. TURTON.] The Earl of *Winchilsea* was sorry, that he was not present the other evening, when a noble Friend of his (Lord Wharncliffe) asked a question of the noble Viscount, which appeared to him to be of great importance. So far as it went, the answer given to that question, which related to a recent appointment in Canada, was satisfactory. But, had he been in his place when the noble Viscount expressed his regret at the appointment, he should not have been entirely satisfied, without inquiring what course the Government meant to adopt on the subject. When he had formerly sought information as to this appointment, he entertained no doubt that the individual alluded to had gone out with a view to his becoming a member of one of the highest and most important missions that had ever been sent from this country; and he objected to any such appointment, because he viewed it as being closely connected with the character of the Sovereign. In his opinion, no one should have been employed on such a mission, except his character was free from taint or blemish. He now begged leave to ask the noble Viscount a question, namely, whether the individual to whom he alluded had been recalled? That was the only question that he meant to ask. He had heard it reported, but he trusted the rumour was without foundation, that the appointment had not been interfered with. It had also been reported, that another individual, who had been imprisoned for three years, on account of a very grave offence, had left this country, with a view to an appointment on the same commission. He was ready to make all just allowances for the failings of individuals, for the weakness of human nature. He did not mean to say, that in consequence of the unpleasant situation in which individuals might place themselves by improper conduct, they ought never to be allowed to hold any appointment under the Government. But this was, in his mind, a most peculiar case; and he must say, that the situation which was filled by the person to whom he alluded, ought not to have been conferred on him, connected, as he repeated that it was, with the character of the Sovereign of this country. If the second report to which he had drawn the attention of the noble Viscount were a fact, then, he must say, that two persons had been selected for important situations which they were unfit to fill, and from which they ought to be removed. He hoped, that the rumour was not true, and to elicit the truth, he had put this question to the noble Viscount.

Viscount *Melbourne* said, that Ministers had very recently received an account of the appointment complained of, and had not yet had time to communicate with the Government abroad. Under these circumstances, it would not at present be convenient to state the course which Government intended to pursue.

The matter ended.

Slavery in the Crown Colonies.] Lord *Brougham* having presented a large number of petitions, praying for the immediate abolition of Negro Slavery, said, he rose for the purpose, and, as he hoped, and most confidently expected, for the last time, of addressing this Parliament, or any assembled inhabitants of this country, on the great question which had called them that day together. If he had long laboured strenuously, but feebly—honestly, though humbly, in this great cause—if he had, through good report and through evil report, abided by that cause—if he had, through various fortunes, even when his mind was most depressed by the prospects before him, and the circumstances which surrounded him, never for one instant felt despondency as to its ultimate success, it was, because he had at all times to support him the public mind of this kingdom. At all times this question had been gloriously distinguished from all others, in that it laid asleep, for the moment and for the occasion, every difference of political opinion; all discrepancies of religious feeling, faction, and sectarianism, went to sleep when humanity and justice, and sound policy, and the character of the country, were all involved in the issue. That it was, that bore up his spirit, even when aware he was outnumbered by the representatives of the people, to the extent of three, four, or five to one—even when after the representatives of the people had come round to the opinion of their constituents, and had given their voices, with that of the country, in favour of the measure, even when the very day after they, by another vote, reversed that decision. When, too, their Lordships were pleased to interpose one of those obstacles which had been deemed necessary to prevent rash and precipitate Legislation, but which, on that question, if on no other, produced effects all but fatal to the hopes of the abolitionists—even in those most gloomy times, and when they had gone so far as to carry the measure of 1833, and he found that experiment successful in no one part—even then, when their Lordships would not listen to his warnings, nor lend a favourable ear to his entreaties, and he was aware that the Members who would support him were so small that he dared not ask for a division, even then his spirits were undaunted—he felt his cause to be just and right, and he knew the people to be with him. He now stood before them under different circumstances, he came now to rejoice in all but the accomplishment of all his hopes. He came now to remind their Lordships that the day had at length, and on this very day, arrived, when they could not refuse their consent—all that was wanting—to complete this measure of justice, and that all must be given in England, because in the colonies there was not the power to give it. But he must first remind their Lordships, and a few words would suffice, of what had been done in the West Indies with regard to this question. Glory and gratitude ever lasting to the people of Antigua, for their bright example had been followed elsewhere, and it seemed as if the lustre of their achievement had enabled others to see the error of their ways. Antigua, however, took the lead. Antigua, two years before any other, adopted a similar course, came forward and dared to be wise, dared to be prudent. She knew and felt, that the most prudent and the safest policy was also the most virtuous, the most just, and therefore the most prompt and the most bold. Her example was followed by Montserrat, and by the smaller isles, and then by the greater colony, which arrogated to itself the title of "Little England"—he meant the great colony of Barbadoes. There remained Jamaica, and he was informed this day, as if by the special interposition of Providence—having postponed his motion from time to time owing to one accident and another—having put it off on the last occasion in consequence of the illness of a noble Lord—having thus waited till this day to bring forward this motion, whereof he had given notice, on this very morning there had arrived, to greet him on the dawn of the day that should witness the last discussion in Parliament, as he fervently hoped, of this great question, the glorious intelligence that, at length, Jamaica too had given way, and that, in Jamaica, with unexampled dispatch, in the space of three or four days, the measure had been carried through the assembly, and the negroes of Jamaica were free on the 1st of August. These were the slave colonies which followed the example of Antigua. The numbers emancipated were, in Jamaica 235,000, in Barbadoes 54,000, and in all, including Antigua, there were not less than 355,000, besides those whom the measure of 1833, as non-predials and young children, emancipated. But in the unchartered colonies, as they were called, which had not the option, even if they pleased it, of emancipating their slaves, the whole amount of slaves whose fate hung upon the decision of their Lordships was no less than 130,000 souls. With regard to those colonies which had legislatures of their own, their Lordships might with a show of justice have pleaded their reluctance to interfere with those legislatures, but could this be urged with regard to the unchartered colonies, which had no legislatures at all? The Crown was to them what the House of Assembly and the Legislative Council were to Jamaica and Barbadoes. Having no legislature, they could not, even if they would, follow the example which had been set them by some of the other colonies. Let their Lordships only look to the state of Guiana, Trinidad, St. Lucia, and Mauritius. He said nothing of the Cape of Good Hope, where since the 1st of September the slaves had been emancipated by law. Were the slaves of Guiana and the other colonies which he had named less fitted for the reception of freedom than those of Jamaica, Barbadoes, and Antigua? Was the lot of the slave under the tropical sun of the Mauritius, or in those other islands which were not blessed with the healthiest climates, one whit lighter than in Jamaica, or in Antigua, where they enjoyed all manner of comforts? Quite the reverse. It was in the savannahs of Trinidad, and upon the alluvial soil of Guiana, that human life was most prodigally wasted, in ministering to European avarice, and it was there that it behoved the mother country to interpose to put a stop to the inhuman deaths, to the diseases which were felt to be more cruel than death, to the fatal contamination which the necessity of labouring on those fatally unwholesome plains inflicted on those wretched victims of avarice. But the voice from Mauritius, which pierced their ear, and rended the silence of that eastern sea, was aggravated in its tones of pity, and fell still harsher upon their ears, from this hard addition to the lot of the slave, that three out of four of those who cultivated the plains of Mauritius, all suffering worse torments than even those which were inflicted upon the negroes of Guiana and of Trinidad, had never in their lives been legally slaves at all. They had been transported thither, not only against the law of nature, but after the law of this land had made transportation of the slave a capital crime; and 30,000 capital felonies had been committed in conveying over 30,000 of these victims of their weakness, and planting them under the unwholesome climate and upon the unwholesome soil of that Mauritius. If ever there had been a single neglect of duty upon the part of a Legislature, it was theirs, in not having at once broken through the fetters of a mere legal informality, and passed a new law to prevent the recurrence of these monstrous outrages; but in paying, on the contrary, the frightful sum of 2,000,000*l.* sterling as compensation to those capital felons, instead of giving them their deserts upon the gallows. The House was perhaps not aware that there was not more than 7,000 out of the 38,000 negro slaves in Mauritius who could be considered as legally deprived of their liberty, or as having ever been made slaves. The report of the commissioners stated, that upwards of half of the whole number of slaves in that island were brought over by capital felony, and it had been admitted by the hon. Secretary in the other House of Parliament, that twenty-five out of thirty-eight of the Mauritius negroes were not registered as slaves. Now, let him suppose a case; if six men were upon some charge committed to prison, suppose that it turned out afterwards by the clearest possible evidence, by universal admission and general consent that three out of the six had been guiltless from the beginning and ought never to have been tried, he believed, that no one would be audacious enough to say that, if either all must be punished or all pardoned, the three guiltless persons ought to suffer. That was his case with regard to the Mauritius, except that it was aggravated by the proportion being five out of the six. Now, he wished to remind their Lordships very briefly of the manner in which he had formerly put this subject, and which was now even more unanswerable than it had been then. Let their Lordships suppose that that which experience had since proved had been revealed to them previously to the passing of the Emancipation Act. Suppose it had been revealed to them, that that measure had been founded in a fallacy, and that there was nothing in the circumstances of these islands to require the preparatory state which that bill provided. Compensation was given to the planters, but that preparatory state was not intended as a compensation to the master, but it was for the negroes' sake; it was introduced for his benefit and his welfare; and his interest, it was argued, required that transitive state. But suppose they had been told with the same certainty which experience had given, that the negro could work for wages as well as the white man, that the negro was a peaceable creature, and patient of misery and injustice to a degree far exceeding that of the white man; supposing such to have been the case, he should like to see the man even now who would have been the advocate of an apprenticeship, or who woule have attempted to vindicate the propriety or lawfulness of the transitive state. But now they knew all that was certainly as if they had been informed of it by revelation—experience had taught them the fallacy of all their apprehensions and conjectures; and other reasons, independently of all considerations of public policy and expedience, had been brought into the scale against the system of apprenticeship. Applications of various kinds had been made to their Lordships' House against that system, and upon various grounds. Even the score of interest—the interest of the planters themselves—the abolition of the apprenticeship had been recommended. In Antigua, they had heard of an estate, the expense of cultivating which by hired labour was *550l.*, but nearly double that amount by the labour of slaves. As to the measure being safe, and attended with no risk or peril, they had a large body of evidence; and last of all, they had heard the entreaties of a Gentleman, whose petition he had presented, and who was the resident proprietor of an estate in Jamaica, producing 8 or 9,000*l.* a year—whose whole interest was involved in the prosperity of the colony, and in its peace and tranquillity—and who had written a letter in which he implored Parliament to lose not a moment, because the two years of pretended preparation would only give rise to bad blood between the slaves and the planters; and because he held, that that which was safe in August, 1838, would be pregnant with danger in August, 1840. These were the circumstances which rendered it not only safe—but if safe, necessary—a duty incumbent on their Lordships to consent to the motion, which he intended to propose. He saw nothing but peril in delay; he spoke not his own opinions—because he must be ignorant of the facts from practical experience—but he spoke the opinions of the persons resident in Jamaica, and amongst others of the Governor, as expressed in his address to the Assembly of Jamaica, in which, after doing justice to the excitement on this subject which had prevailed in this country—to its intensity—to its universality, and he thanked God, he might add, to its success — he recommended the speedy emancipation of all the apprentices, and concluded with these remarkable words:—" As Governor under these circumstances, and I never shrink from any responsibility, I pronounce it physically impossible to maintain the apprenticeship with any hope of successful agriculture." Then for whom did he now appear as counsellor? He appeared for the planters themselves as well as the slaves, and he had the authority of the Governor of Jamaica addressed to them, who, if he were dealing in terms of mere romance would have turned away from him in disgust, or whose experience, if he were wishing to deceive, must have frustrated the attempt—he had his authority to say, that the cultivation of the islands by slaves would be physically impossible. The hoe would fall from the negro's hand; he would not work as a slave; but he had already shown, that he would work as a free man for hire. His resistance in the former case might be merely passive, for he had shown himself of all creatures, God knew! the most patient and enduring. But he would not answer for the slaves of Jamaica or Trinidad, and still less for the slaves of the Mauritius, rankling in their souls, as the feeling must be, that though others were then under the colour of our unjust law, still there was some legal colour of a right *de facto* for it—whilst they were then solely by crime and capital felony. He would not answer for the tranquillity of any one island in the eastern or Caribbean seas, if this right—for right he called it—was withheld. But he might now turn to Jamaica, if not in language of admiration for the exploits of which that day's arrival had brought them intelligence, still in terms of hearty congratulation. Jamaica had saved herself from all those fatal scenes which, if justice were not done, there was two much reason to apprehend. "Rempublicam, vitamque omnium, bona, fortunas, conjuges, liberosque atque hoc domicilium clarissimi imperii, fortunatissimam pulcherrimamque urbem, hodierno die, deorum immortalium summo amore, ex flammâ atque ferro, ac pene ex faucibus fati, ereptam, et conservatam ac restitutam, videtis." He heartily congratulated that great colony, which by the favour of heaven had taken that noble step; at length it had deemed it wise and fitting so to act, while it was called to-day, and it now no longer had to dread the awful and tempestuous night of negro insubordination. Now, that brought him to the consideration of the unchartered Crown colonies. They had no Legislators of their own. They could not do what Jamaica had done—they could not conserve, and restore, and place in safety their lives and fortunes—their wives, and children from the fire and the sword, and the violence of the negro; they had no legislatures; but to them it was, and to the Crown by their advice, as its hereditary counsellors, that the Crown colonies had a right to look for assistance; but he should perhaps be told of some court of policy—or counsellors, or other local authority—a mongrel legislature—a doubtful spurious authority—half recommendatory, half law-giving, with respect to the acts of which they could hardly tell whether they were suggestions or enactments; but let that authority, or legislature, be what they pleased, until they gave its acts force, force of law they had none. On other subjects the Crown had not left those colonies to legislate for themselves; orders in council and instructions had been issued. But there was another consideration—time was everything in this case; despatch was all-in-all; a week's delay might be attended with great inconvenience; a month's delay was highly dangerous; half a year's might be fatal. A despatch from England would not reach the Mauritius in less than two months and a-half, and it would take the same time to bring back the answer. Here were five months gone, and another two months and a must pass before the proceedings of the colonial Government could have the force of law. Eight months, therefore, must elapse, even if the colonists were disposed to do that which he disbelieved in their disposition to do. He said he disbelieved in their disposition to do so, because a less subordinate and less well-disposed set of men than the residents in the Mauritius it was difficult to find. They had all the prejudices of planters against the negroes, all the prejudices of colonists against the mother country, and, added t these, the accidental prejudices of Frenchmen against Englishmen; and, above all, that strange, but most mistaken, prejudice, from which even the most liberal of our neighbours on the other side of the Channel were not entirely free—that at the bottom of this question of slavery there was an English interest working against a French interest, and that by following our example they would be falling into some trap prepared for them. As the whole of the islands, having legislatures, had effected emancipation for themselves, why should not the Crown come forward and rescue and conserve, and restore to the slaves in the Crown colonies their freedom, and that of their wives, and their children? By all these considerations—by the character we had for fortitude in war and courtesy in peace—by the patience which we had shown under burdens and sufferings, but which was nothing to the patience with which the negro had endured the monstrous outrages which had been inflicted upon him—by our character for justice, mercy, and religion, and especially the Christian religion, which, whenever it pointed a sentence or adorned a period, was so loudly and even pharisaically professed—and he would never cease to call it pharisaical, if, with the word of the Gospel on our lips, we refused to act in its spirit—by the groans of these bondsmen, in the islands, and by 24,000,000 of voices echoing those groans, and calling on their Lordships for justice—by all these appeals to their feelings, their principles, and their religion, he claimed at their Lordships' hands an assent to his motion. The noble and learned Lord concluded by moving, that an humble address be presented to her Majesty, praying that her Majesty would be graciously pleased to issue an order in Council forthwith, to put a period under proper provisions and regulations to negro apprenticeship in the unchartered colonies of the Crown.

Lord *Glenelg* observed, that the noble and learned Lord, in the commencement of his speech, had expressed his congratulations at the news received that day from the West-Indies. He (Lord Glenelg) joined most cordially in the feeling of general satisfaction which that news must have inspired in the mind of all who took an interest in this great question. The noble and learned Lord must not suppose, that those who resisted the earlier close of apprenticeship felt less for the interests of the negro population and for the interests of the colonies than the noble and learned Lord himself did when he moved for the intervention of the imperial authority on the subject. He and those who acted with him had always maintained, that the objection was, to the intervention of that imperial authority in cases where it was not required, where it was opposed by a great principle, and where the result might much more effectively, more satisfactorily, and more permanently be obtained by acts of the local Legislatures themselves. They had always felt and avowed, that an earlier termination than in 1840 of the apprenticeship was desirable, if that object could be obtained by Acts of the local Legislatures themselves. This was the sentiment which he had repeatedly expressed in the course of last year in despatches to the various Governors of the Windward and Leeward Islands. Indeed, he might say, that the movement in Barbadoes was originated by a despatch from himself in which this sentiment was stated. The objection to the proposition of the noble and learned Lord had been this, that there existed a compact binding the two parties which England could not consistently infringe upon. The local Legislatures, however, had themselves now solved the question, by taking the course which the Government here had often pointed out to them as advisable, but which Government had entirely left it within the decision of the local Legislatures to adopt. It had always been considered by the Government here, that any such measures would be far more successfully and more safely carried into effect by the local authorities. It would have been highly prejudicial to the object, it would, indeed, have been very dangerous, to have sought to effect this object without the previous sanction and hearty co-operation of the local authorities. To have done otherwise would have only been to sow the seeds of such exasperation and such suspicion among those authorities as in a material degree would have tainted the value and endangered the success of the experiment. With regard to the question of policy there had been a difference between himself and his noble and learned Friend. What had resulted from the proceedings which they had taken? His noble Friend had said, that he could not expect any success from the course taken, but the Government said, that they did expect a successful result. He said, trust the local legislators in this matter, and hey would be induced to yield to the wishes of this country; but his noble Friend said, trust not the local legislatures, as they would do nothing to advance this question. Did not the result show, that it was better not to exact too much from them when aid was so desirable for the successful working out of the object in view, and that it was better to show that you had confidence in them, than to take those steps which would only have the result of driving them to despair, and who might then pursue a course which would impede in a great degree the success of this measure? He had said throughout the discussions on this subject that it would be better to let the local legislatures perform their duty: and this result had proved to be correct, notwithstanding the repeated precautions of the noble Lord to the contrary. His noble Friend now said that the Crown colonies had neither the power nor the inclination to perform their duty, and follow the example set them by the chartered colonies. If his noble Friend was not strictly accurate as to what he said with regard to the proceedings of the legislatures of the chartered colonies, he would also state that he would not be more accurate as to the proceedings of the legislatures of the Crown colonies. Exactly the same ground applied to the Crown colonies as to the chartered colonies. Similar instructions to those sent out to the chartered colonies had been forwarded to the Crown colonies, and he had no doubt they would be acted upon by the local authorities and legislatures in the same spirit in the latter case as in the former. His noble Friend said, that the Legislatures of the Crown colonies were of somewhat an anomalous character, and that they could not deal with the subject as the legislatures of the chartered colonies. The fact, however, was, that although the legislative bodies in the Crown colonies did not possess powers to the same extent as those in the chartered colonies, still they were independent legislatures. His noble Friend said, that in the Crown colonies, the Governor in council corresponded to the executive or legislative council in the other colonies. It was true that the legislature was carried on by the governor and council, or the Court of Policy as it was called in Guiana and other places, but this body possessed all the power of legislation for the internal affairs of the colony, for the levying local taxes and other purposes, as much as the legislative bodies in the chartered colonies. He repeated, this body in the Crown colonies exercised the functions he had stated, and carried on all the legislation, and controlled the taxation, and superintended the law-making for the colony. This legislature, however, was restricted in one respect; it was subject to the approbation of the Queen in Council, in the same degree, and in a similar manner as the acts of the Legislative Assemblies of the chartered colonies required that sanction to become laws. The legislatures of the Crown colonies, however, were as competent to legislate on this subject as the legislatures of the chartered colonies, as they had nearly the same powers of internal legislation. He appealed, then, to any noble Lord whether it were expedient under these circumstances to interfere by means of an order of the Queen in Council, and whether it would not be more wise and prudent that the same forbearance and moderation that was pursued towards the chartered colonies, should also be followed with regard to the legislatures of the Crown colonies. He believed, that noble Lords would agree with him, that that right and power which the Queen possessed over the acts and proceedings of the legislatures of the colonies, should only be adopted and acted on in cases of necessity, and in such cases where Parliament would interfere with its authority. He thought, that this argument must have its due weight; that the acts of the Legislatures of the Crown colonies were only subject to the approbation of the Queen in Council, as was the case with the laws of the chartered colonies; and they did not come within any act of authority of any other body. He was happy in being able to state, that in fact the Legislatures of the Crown colonies had followed the example set them by the Legislatures of the chartered colonies. In addition to the information which had been alluded to by the noble Lord, as having been received from Jamaica, he could also sta e, that similar satisfactory accounts had lately been received from Grenada, and also from the Bahamas, which had arrived within the last few days; and he had good reason to believe, that within a short time from the dates of his communications, measures would be originated in these colonies similar to those that had been carried in other chartered colonies. In addition, however, to this, he was happy in being able to state, that in some of the Crown colonies the Governors intended to submit to the legislative bodies similar acts to those which had been carried in other places, and no doubt was entertained of their success. This had arisen in consequence of the instructions sent out to the Governors of the colonies. He was happy to find, that in the Crown colonies the Legislatures did not find themselves more fettered than in the chartered colonies. Special letters had been sent out to the Governors of the various colonies, stating that the home Government was anxious to press on the attention of the Governors and the Legislatures of the Crown colonies the question of the termination of the system of negro apprenticeship. He would now shortly proceed to state what had occurred in some of the Crown colonies. In Trinidad the legislative body had been convened for the purpose of taking the subject into consideration, and on the day the mail came away, a message was sent from the Governor to the legislative body, and it was ordered to be taken into consideration the day after the mail came away. From St. Lucia information had been received, that the Governor intended to propose a measure to the Council, and no doubt was felt as to its receiving the sanction of that body. Again, in Guiana a similar proceeding had taken place; although no official account had been received of this, still within the last fortnight letters had been received from some most respectable owners of property in that colony, in which it was stated, that the Governor had submitted the subject to the consideration of the Court of Policy, and no doubt whatever was entertained as to the body sanctioning a plan for the termination of the system of negro apprenticeship. The probability was, that before the present period, all the Legislatures of the Crown colonies would have accomplished the anxious desires of the people of this country, and followed the example set them by the chartered colonies. From Mauritius there had not been time to obtain any certain information, in consequence of its distance; but the same legislative authority existed in that colony, as in the Crown colonies in the West Indies, and he had no reason to doubt, that the advice of the Government of this country, embodied in a recommendation from the Governor, would be received in the same manner as in other places. Indeed, he could not help saying, that the subject had attracted so much attention in this country, that it must command the serious consideration of the colonies. He should have observed, that there was this peculiarity in the Mauritius from the other colonies, that the termination of the apprenticeship system of the non-predials was six months later than in other places; that was, that it commenced on the 1st of February, instead of the 1st of August. He entertained no doubt in his own mind, that in this island the result would be that which they anxiously desired; but in the three great Crown colonies in the West Indies, he had not the slightest doubt that two out of the three would at once accomplish the work, and most probably the example would be followed by the third. By this means, the question would be settled in a most satisfactory manner, and it would render unnecessary the painful alternative. He did not know, that he had anything more to state, as all that he presumed that his noble Friend required, was a simple statement of the affairs of the colonies at present. He would then only add, that he had little doubt that before the next Session his noble Friend would see a complete termination of the apprenticeship system in all the colonies.

Lord *Brougham* had seen the despatch addressed to the Mauritius, and he begged to ask his noble Friend, whether he did not know, that unless some special instructions were given to the Crown colonies, that all the Court of Policy could do, was to pass an act, which, on coming to this country, should receive the Royal assent and approval, and that without which assent and approval, it would not be binding on the colony. Was not this also the state of things as to St. Lucia?

Lord *Glenelg* said, that his noble and learned Friend inquired whether any specific directions had been sent out to the Crown colonies? He (Lord Glenelg) referred his noble and learned Friend to the despatches before the House. He could not but think, that the best proof as to the result of those instructions was, that they were likely to be carried into effect at the earliest opportunity.

Lord *Ashburton* remarked, that supposing the Governor of the Mauritius followed up the instructions sent out to him, had the Governor power to give effect to the acts in accordance with those instructions, without their first being sent home for approval?

Lord *Brougham* was surprised and gratified at the communication that had been made by his noble Friend. He entertained some doubts, however, whether the Governor and Council of the Mauritius and other Crown colonies, without the direct interposition of the Crown could pass such a law as would be requisite. The situation of these Crown colonies was very different from that of the chartered colonies. He would, therefore, recommend that special despatches should be sent out to each of these colonies, authorizing th Governor in taking the necessary steps.

Lord *Glenelg* thought, that it would turn out that the doubt could easily be resolved, but there could be no possible objection to send out such despatches as had been suggested by his noble Friend.

Lord *Brougham* said, it was most satisfactory to him to hear the determination of his noble Friend, and he would suggest, that the despatch ought to be accompanied by an order in council, which the Governor should be enabled to use if the spurious Legislatures of the Crown colonies should refuse to act. No harm could result from such an order, and it would save five months of the continuance of the existing evil, and he trusted his noble Friend would receive the suggestion in the spirit in which it was made. He had only one observation to make on the matter, seeing the satisfactory conclusion which had been arrived at. His noble Friend had spoken to-night in a better spirit than when this question was previously under discussion, because his noble Friend had now the advantage of the news which had been received to-day. Before to-night his noble Friend had said " You are wrong, and we are sanguine." His noble Friend had flattered himself that all these results had been effected by the course of the Government, but he maintained, that but for the interference of this country by the friends of emancipation and of liberty, there would not to-day have been received such a despatch as had arrived from the governor of Jamaica—a despatch which had been the subject of so much triumph and congratulation on the part of his noble Friend. But it should be remembered, that his noble Friend's despatch was dated the 16th of April, while all the agitation and discussion out of doors and in that House had occurred in the previous months of February and March. These facts were pointed at, both by the Governor of Jamaica and the Governor of Barbadoes in their respective addresses to their Houses of Assembly. The latter admitted, that he was glad to find that the labour of good and wise men who had taken a part in the agitation of the question in this country had not been thrown away. He gave honour to those men who had been the objects of calumny which they regarded not, of suspicion which they despised, of vituperation which they allowed to pass by them as they would any other storm of empty air that they needed not; he gave to such men as Joseph Sturge, James Scoble, Josiah Conder, William Allen, and George Thompson, with whom he had been united as a most humble but most zealous coadjutor, the glory of that day, being as thoroughly persuaded as he was of his own existence, that but for their efforts, that day would not have dawned upon them. He hoped that every event would answer the expectation of his noble Friend, and he hoped particular care would be taken, that those expectations of emancipation in the Mauritius should not be frustrated. He knew that something more remained; a jealous, a constantly vigilant eye must be kept over those very selfsame assemblies, whether of full or partial legislative authority, which existed in our various colonies. For if they found them under the name of police regulations, a vagrant act, a poor law bill, or of any other of the devices which he knew their ingenuity and pertinacity full well enough to be apprehensive, they would soon attempt to pass it, as he had already seen, attempts were made by means of a vagrant act to perpetuate slavery under another name, by the help of the magistrate and the master, whose power had died a natural death; and if, under associations of men armed with power and influence, their Lordships saw any attempt to revive under another name and under false pretences that slavery which the law would not suffer to exist under as odious and disgusting appellation any longer—if any such things were attempted, he should not be wanting in the discharge of his duty to expose the violators by evasion, and therefore the worst, because the fraudulent violators of the law. Had not their Lordships seen the circular of the Messrs. Huson, who had held themselves forth to the public as accomplished man-merchants, and who had bragged that in two years they could furnish to the Mauritius 5,000 Hill Coolies at 10*l.* a-head, including passage-money, provision, water, and all other stores, and an advance of six months' wages and clothing, those wages being five rupees, or about 10*s.* a-month, while the wages of a day-labourer in that country was, instead of 3*d.* or 4*d.* a-day, from 3*s.* to 4*s.* a-day? Those poor and ignorant creatures the Hill Coolies were smuggled away under the idea that the Mauritius to which they were going, was a village belonging to the East-India Company, and this was done at the very time, be it marked, that the apprenticeship system was abolished, or about to be abolished. He hoped, that before this session of Parliament closed an entire prohibition of the traffic in Hill Coolies would be passed. He had seen an account of a vessel having carried over 150 Hill Coolies, and, as a brag, it was said that only 10 died in the vessel during the voyage of four months—that was to say, a mortality of 1 in 15, which was a most hideous and frightful mortality, and an additional reason, if any were wanting, why that abominable traffic should be stopped.

Lord *Glenelg* denied, that he had said anything to detract in any way from the merits of the persons engaged in advocating the cause alluded to by his noble Friend. He did not intend to arrogate to the Government more credit than he really thought that it deserved for the course they had taken on this subject; he would not, however, dwell on it, He believed, that all would agree in the policy that in all the colonies all the non-predials should be under one system, and that as nearly as possible the apprenticeship system should terminate at the same period. With respect to the letters which he had sent out to the West Indies on the subject of terminating the period of the apprenticeship of the negroes in the colonies, he begged to inform his noble Friend, that he would find in the printed papers on the table one dated so far back as September last. He repeated, that he did not intend to deteriorate from the claims of the gentlemen alluded to by the noble Lord, and he was certainly far from denying, that the strong opinion of the people of this country on this subject had had a powerful effect on the conduct of the West Indian Legislatures.

Lord *Brougham* said, that he had one observation to make to their Lordships in reference to the slave trade being carried on by Russian ships. He had recently received a letter from a person in Havannah, who stated, that on the 13th of March a Russian vessel had landed 354 slaves in that colony, and that four other vessels of a similar character were daily expected to arrive. He merely mentioned this to show the extent to which this dreadful traffic was carried on under the flag of Russia.

Motion withdrawn.

PLURALITIES.] The House went into committee on the Benefices Pluralities Bill.

On Clause 4,

Lord *Wharncliffe* said, he could not but think, that this bill, like some of the reforms proposed in the institutions of this country, went far beyond the necessity of the case. Another objection he had to the bill was, that it began at the wrong end, for before they came to deal with the matters affected by this bill, they ought to endeavour to make the income of every clergyman, sufficient to enable him to live in a respectable manner. In many parts of the north, and particularly in the manufacturing districts, many of the livings were so starved, that it would be impossible to get clergymen to undertake the duties of such parishes, without increasing their incomes from some other source. The clause proposed, that a radius of ten miles should be the limitation for the holding of two benefices; he conceived that to be a much worse arrangement than a clergyman being allowed to hold two livings in a radius of forty miles, because in the latter case he would employ a curate to attend to one of them, which perhaps he would not do in the former case. He proposed an amendment confining the operation of the clause, to livings above the yearly value of 100*l.*

The Archbishop of *Canterbury* could not concur in the amendment. He did not think, that it would be wise to interfere with the principle upon which the bill was founded, and he trusted, that a remedy would be found for the grievance to which the noble Lord had directed their Lordships attention, without adopting the amendment proposed. The subject had been fully considered by the commissioners, and when their recommendations were carried into effect, the evil would, he trusted, be effectually removed. He hoped that the number of cases to which the amendment would apply was not great, and he was unwilling that the principle of the measure should be broken through. He did full justice to the motives of the noble Lord who had proposed the amendment, and from his respects for those motives he regretted he was obliged to oppose it.

Amendment negatived without a division.

Lord *Portman* then moved, that the words "situate within the distance of ten statute miles from" be omitted, and the words "contiguous to" inserted in their place. By that amendment they would arrive at the nearest possible point to a final declaration, that no pluralities should exist at all, and render the principle of the bill clear and intelligible. It was perhaps impossible to effect the entire abolition of pluralities at present, but if the amendment he had proposed were adopted, they would arrive at the nearest point to an entire abolition, and prevent the holding of benefices in plurality in all cases except those where the incumbent would be able to give to both parishes his personal superintendence. He considered the point to which he had called their attention of so much importance, that he should take the sense of the House upon it.

The Archbishop of *Canterbury* said, that the clause on which the amendment had been moved, had been agreed to after mature deliberation—first by the Ecclesiastical Commissioners, and then by the assembled Bishops, and there was no difference of opinion on the subject. It was agreed, that in framing the clause, they had adopted the just medium between the two extremes, and taken a fair position between those who contended for the abolition of plurality and those who entertained a directly opposite opinion. He considered that the amendment would operate injuriously, and that it would have the effect of reducing the number of curates so much, that young men would be admitted at once to the care of large parishes which required an experienced pastor. He admitted, that pluralities did require restriction; but he believed the majority of those who were best qualified to give a sound opinion on the subject, were of opinion that the restriction proposed by the bill went too far. He could not consent to the amendment of the noble Lord.

Lord *Wynford* considered, that there should be no alteration in the law on this subject, unless to put an end entirely to pluralities. The most rev. prelate had admitted, that the bill would not put an end to pluralities, and the measure, therefore, was framed on no definite or intelligible principle, for no person could possibly understand why there should be any alteration in the law, unless that alteration proceeded upon the principle contained in the amendment which had been moved by the noble Lord. He would submit to their Lordships, that the only intelligible principle on which to found a measure for restraining the holding of benefices in plurality was, to prevent the holding of two livings by any one individual, unless when the parishes were contiguous.

The Earl of *Harrowby* was understood to say, that he agreed with those who thought, that the bill was founded on no intelligible or definite principle. He considered the abolition of pluralities desirable, but that could only be effected by a new distribution of Church property, or by the State furnishing a sum sufficient to make the small livings adequate to support a resident clergyman. He advised their Lordships to adopt the bill, which had been twice before the Legislature, and had now come up from the other House as an experimental measure.

The Bishop of *Lincoln* said, that the effect of the clause as it stood would be to diminish the number of pluralities by one-half. He concurred in the suggestion as to the propriety of taking the bill as an experimental measure.

The Bishop of *Salisbury* objected to the amendment, under which, he said, two livings might be held together, where, though the livings were contiguous, the distance between church and church would be greater than it could be, if the clause as it stood were adopted.

The Bishop of *Glocester* supported the original clause. If it passed, all but thirty of the present pluralities in the see of Glocester would be illegalised, and to those thirty no material objection could be made.

Lord *Hatherton* thought the bill objectionable on account of the extent to which it appeared to sanction the principle of pluralities, and supported the amendment, because it would tend to establish a wholesome system of superintendance on the part of the incumbent over his flock.

The Committee divided on the amendment—Contents 9; Not Contents 50: Majority 41.

Clause agreed to.

Remaining clauses agreed to.

And the House resumed.

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HOUSE OF COMMONS,

Monday, July 16, 1838.

MINUTES.] Bills. Read a first time:—Church Appointments Suspension.—Read a second time:—Land Tax Reduction; Sea-coast Fisheries (Ireland).—Read a third time:—Port of London; Coal Trade; Highways.

ROYAL EXCHANGE BILL.] Sir M. Wood moved the third reading of the Royal Exchange Bill.

Mr. *Pryme* objected to the bill, that it proposed a tax upon coals; and he had always thought, that improvements in buildings—whether Ramsgate Pier or Royal Exchange—ought not to be carried into effect by a tax levied on one of the necessaries of life. He therefore moved, that this bill be read a third time that day six months.

Mr. *Wolverly Attwood* seconded the amendment. It appeared to him, that in passing this bill, the House would, so far as the coal duty which the bill imposed was concerned, be acting in a manner entirely inconsistent with the provisions of another measure which was before the House—the Coal Trade Bill. The Coal Trade Bill was founded on the recommendation of a committee expressly appointed to consider the subject; and that bill, which was a public measure, provided that the duties on coals should be renewed for seven years, and should then be subject to the revision of the House. By the present bill, it was proposed to continue the coal duties for twenty years. Upon principle, too, he objected entirely to the providing by a coal duty for the improvement of the streets in the city of London; for that was the object, and not the re-building of the Royal Exchange, to which the sums to be raised by the tax on coals was to be applied. It was the most objectionable and oppressive tax which could be levied. It had been said, that the amount was so trifling, that the pressure upon the poor was not felt; but even the direct amount paid by the poor man yearly would be equivalent to the cost of his supply of fuel for a week or a fortnight; and indirectly, the cost of every article he consumed, his beer, his bread, his clothes, was augmented. The principle recognised was, that in the case of a city, distant as London was from the coal district, everything should be done to reduce the price of fuel, instead of increasing the cost, by taxes of this nature. The breweries, the distilleries, all the trades which were necessarily carried on in the vicinity of a large town, were obliged to compete at a great disadvantage, with the productions of establishments at a distance. It was to be observed, that this duty was levied, not only on the inhabitants of the city of London, but on all residing within a circle of about twenty miles; and he maintained, that there was no just ground for subjecting them to the burthen of this tax, and all the accompanying disadvantages, for the purpose of improving the city of London.

Mr. *Labouchere* felt it his duty to say a few words, because he thought the hon. Gentleman who spoke last, had rather mis-stated the case. The hon. Gentleman had stated, that the bill which he (Mr. Labouchere) had introduced, imposed a duty upon coals for seven years; and that then it contemplated the cessation of those duties after those seven years; whereas the bill before the House, proposed to continue those duties for a much longer period. He had the pleasure of meeting the hon. Gentleman in the committee, upon whose recommendation the bill was introduced; and the hon. Gentleman must be aware, that the Coal Trade Bill, so far from imposing duties for any fixed period, only commuted the duties which already existed, and which must exist for a much longer period. The bill provided, that for the next seven years, a much more simple machinery should be applied to the collection of these duties, and one more conducive to the public advantage. That was the sole and simple object of the bill; and it was optional with Parliament, at the end of those seven years, to consider that commutation, and renew it if it were found to work well. He thought it necessary to say so much, lest the House should be led away by the statements of the hon. Gentleman. He would now address himself to the bill before the House; and he so far agreed with the hon. Member, that he thought it extremely desirable those duties should cease altogether. He should be very glad to see the time when the 8*d*. duty would cease, and he had strong hopes that that would speedily be effected. The House should recollect the circumstances under which this tax was levied. It was originally contemplated, that this duty of 8*d*. per ton should be continued for certain purposes until the year 1858, including the payment of certain money borrowed on those duties. In consequence, however, of the great increase of trade in the port of London, it was found that the duty might be dispensed with before that period; and that it would be but just, to provide for its ceasing. The House would admit, that it was of great general importance and interest, that the Royal Exchange, which had been destroyed by a late unfortunate accident, should be built upon a scale of splendor worthy of the importance of this great commercial metropolis; and the only question was, how the funds could be most conveniently provided for this purpose. Upon the whole, he was inclined to believe, that the recommendation of the Committee was the best course to adopt, namely, to allow the duty to continue for the full time; and it was upon that ground he should go with the proposition of the hon. Member opposite, if it was thought necessary to divide the House.

Mr. *Hume* thought it was quite competent for the House to pass the bill for the purpose of making the improvement alluded to in the city of London, without any additional tax being made upon coals. He objected to the poor man being taxed for any such purpose. And, as a proof of the validity of that objection, he had only to refer to what took place in 1830, when a security was given upon the tax on coals, in order to enable the parties to proceed with the erection of London Bridge. By the bill to enable the erection of that great undertaking, a tax of 8*d.* was to be levied on coals till the whole amount was paid. Such a tax, he considered, sufficient on the poor man, without increasing it further, as proposed by the present bill. Out of 137,000*l.*, which was the produce of the tax, 84,000*l.* was applied to the repayment of the borrowed money; if that liquidation went on, it would all be paid up in 1851 or 1852; and then, if the House did not think fit to renew the grant, then, of course, the City would revert to the 4*d.* per ton granted them by charter. The question for the House to consider was, whether they would continue a tax upon that which was a necessary of life to all the people of England, and the two neighbouring countries. If they passed the bill, they made that tax responsible for another 150,000*l.*, which, at all events, would continue the tax for three years. He protested against a tax being continued for any such purpose upon an absolute necessary of life. Let the rich merchants of London follow the example of their brethren of Liverpool, and raise the money among themselves. He would ask the hon. Member to withdraw his opposition to the third reading of the bill, and to allow the sense of the House to be taken on the amendment, which would take away the power of continuing the 8*d.* tax on coals. When the bill was read a third time, he would propose that alteration, which would relieve them from the difficulty they were then under.

Mr. *Warburton* agreed with his hon. Friend as to the propriety of the merchants of London raising a fund for the building. Those who used it ought to pay for it.

The *Speaker* said, the object of the hon. Member for Kilkenny appeared to be to take a burthen from one fund and to lay it upon another; he (the Speaker) doubted if such an object could be effected upon the third reading of the bill.

Sir *R. Inglis* said, it had been contended that the object of the bill was the imposition of a tax for the erection of a Royal Exchange. Such was not the case. The Royal Exchange was not to be erected with the funds arising from the coal duty continued by this bill. The object of the bill was, to make approaches to the Royal Exchange. It had been said, that the merchants of the city of London ought to be as willing to contribute to the formation of a building for their accommodation as the merchants of Bristol or of Liverpool. He did not think the London merchants would dissent from that; but he did not suppose they would pay for making new streets. He did not wish to depreciate the importance of lowering the price of coals; but he thought it would be much better to effect that desirable object by doing away with the monopoly which added forty per cent. to the price of the articles, than to stop this useful project.

The *Chancellor of the Exchequer* said, that he had supported the bill in Committee, and was still prepared to support it. He did so because the bill did not impose the coal duty for the erection of an Exchange, but to make the approaches thereto. If the former had been the case there might have been some ground for the opposition. To the building of the Exchange, the city itself was to contribute. What were the purposes for which this coal tax was appropriated? Were they purposes in which the general trade and convenience of the community were to be consulted? It was in evidence, and was notorious to every one who passed through the city, that there was no greater thoroughfare and no greater embarrassment than between the Bank and the old Exchange. On these general grounds it was but just to assent to the present bill, but he did think, that the existing generation owed a species of debt to those who had been before them which they ought to pay for the benefit of posterity. It was the duty of the public at large to make the calamity which had occurred the source of convenience of the community. Had the great fire of London been turned to account in former days, and the schemes then proposed been carried into effect, conveniences would have been in existence which the public had been deprived of. If the House refused to assent to the present bill it would deprive itself of an opportunity which would never occur again, of seeing the Exchange re-built, not by the burthen of the coal tax nor by burthens on the people at large, but by the efforts of the Mercers' Company. On these grounds he gave his hearty assent to the bill. At the same time he meant to propose some verbal amendments to one of the clauses, to which he thought the introducers of the bill would not object.

Mr. *Barnard*, seeing that the city of London had behaved so generously, thought that the sum provided for by the present bill ought to be granted.

Sir *E. Codrington*, as one of the committee, would give his support to the bill. At the same time he must say, that if any other tax could be found he should prefer it. Money for similar purposes had been raised in former years by lotteries.

Sir *B. Hall** hoped, that he should never see lotteries instituted in the country again. He could never give his consent to the bill, as he thought that a tax on coals was most objectionable. He thought that the promoters of the bill, who had been so loud for the reduction of taxation, were acting in rather an inconsistent manner.

Mr. *A. White* denied, that there was any monopoly in the coal trade: he thought the making a duty on coals for such a purpose unjust in principle, and that it would be far more creditable to the merchants of London if they would follow the example of the merchants of Liverpool, and erect the Royal Exchange and its approaches at their own expense.

Sir *M. Wood* did not think it necessary to detain the House for a moment in reply to the unjust attacks which had been made upon the authors of the bill. The attack of the hon. Member for Greenwich was at least ungracious, as the city, in the bill then on the table of the House, had given up 5,000*l.* which would go into the pockets of the owners of steam-boats. The city were called upon to lay out a vast sum of money to improve the approaches to the Bank of England, which would be a benefit to persons in all parts of London.

The House divided on the original motion. Ayes 102; Noes 38. Majority 64.

List of the AYES.

Alsager, Capt.
Archbold, R.
Baillie, Col.
Baines, E.
Barnard, E. G.
Blair, J.
Bradshaw, J.
Bramston, T. W.
Bruges, W. H. L.
Buller, Sir John Y.
Callaghan, D.
Campbell, Sir H.
Chapman, A.
Chute, W. L. W.
Clay, W.
Clive, E. B.
Codrington, Sir E.
Copeland, Alderman
Crawford, W.
Darby, George
De Horsey, S.
Dick, Q.
Divett, E.
Douglass, Sir C.
Eastnor, Lord
Ebrington, Lord
Estcourt, T.
Ferguson, Sir R.
Ferguson, R.
Freshfield, J. W.
Gordon, R.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grimsditch, T.
Hastie, A.
Hawkes, T.
Hawkins, J. H.
Hayter, W. G.
Heathcote, G. J.
Hillsborough, Earl
Hobhouse, Sir J.
Hodges, T. L.
Hodgson, F.
Holmes, W.
Hope, hon. C.
Howard, P. H.
Hurst, R. H.
Hutt, W.
Hutton, R.
Inglis, Sir R. H.
James, W.
James, Sir W. C.
Kelly, F.
Knight, H. G.
Labouchere, H.
Langdale, hon. C.
Lascelles, hon. W. S.
Lefroy, rt. hon. T.
Lockhart, A. M.
Lucas, E.
Mackenzie, T.
M'Taggart, J.
Miles, P.
Morpeth, Viscount
Murray, J. A.
O'Ferrall, R. M.
Paget, Lord A.
Pakington, J. S.
Palmer, G.
Parker, J.
Parker, R. T.
Patten, J.
Pattison, J.
Peel, Sir R.
Pendarves, E. W. W.
Phillpots, J.
Praed, W. T.
Protheroe, E.
Redington, T. N.
Rice, T. S.
Richards, R.
Rushbrooke, R.
Russell, Lord J.
Sanford, E. A.
Sinclair, Sir G.
Stanley, Lord
Stansfield, C.
Steuart, R.
Stewart, J.
Sturt, H. C.
Sugden, Sir E.
Teignmouth, Lord
Thornley, T.
Troubridge, Sir E. T.
Vivian, J. H.
Westenra, H. R.
Wilmot, Sir J. E.

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* Created a Baronet at the Coronation.

Wood, C.
Yates, J. A.
Young, J.

TELLERS.
Wood, Sir M.
Grote, G.

List of the NOES.

Aglionby, H. A.
Attwood, W.
Attwood, M.
Bridgeman, H.
Bryan, G.
Chandos, Marquess of
Clements, Viscount
Collins, W.
Denison, W. J.
Evans, Sir De L.
Finch, F.
Fremantle, Sir T.
Gibson, T.
Harvey, D. W.
Hawes, B.
Hodgson, R.
Howick, Lord Visc.
Loch, J.
Morris, D.
Muskett, G. A.
Nicholl, J.
O'Brien, W. S.
O'Connell, D.
Ord, W.
Packe, C. W.
Pechell, Captain
Phillips, M.
Praed, W. M.
Pryme, G.
Salwey, Colonel
Somerset, Lord G.
Somerville, Sir W. M.
Style, Sir C.
Warburton, H.
Ward, H. G.
White, A.
Williams, W.
Wood, T.

TELLERS.
Hall, B.
Hume, J.

Bill read a third time and passed.

TITHES (IRELAND)—THE MILLION ACT.] Lord *J. Russell* said, that the House would doubtless expect, that he should make some communication with respect to the deliberations of the Government in consequence of the debate that took place in the House the last time the tithe bill for Ireland was debated. The hon. and learned Gentleman the Member for Dublin having made a proposition to the House with respect to the arrears of tithe, and his noble Friend the Member for North Lancashire having supported a proposition, not the same, but of a similar kind, he then stated to the House, that there were in his opinion three objections to the course proposed to be pursued; that was to say, that there were three objections to a course which required a sacrifice of public money in order to satisfy the owners of tithes in Ireland as to part of the bill which they proposed to pass this year upon the subject of the future arrangement of tithe composition in Ireland. He stated, first, that no sums had been stated as the amount which was ascertained to be due, or was likely to satisfy the claims due. He stated, in the second place, that on the hon. and learned Member for Dublin's own showing, it was not likely, that this would be considered by the great body of the Roman Catholics of Ireland as a final and satisfactory settlement of the question relating to the Church and tithes, and that, therefore, it would be inexpedient to make a large sacrifice of public money on that account, He stated, in the third place, that he thought, as to the future working of the measure, that it would be a bad precedent to begin with a grant to the tithe-owners which must likewise be a remission to all those who had resisted the law, and who had refused to pay tithes in compliance with the provisions of the law, while those who had complied with the law, and who had paid their tithes, were to be losers by so doing. He had stated, also, that one consequence he thought would be, that in any future collection of rent-charge, the landlord would be likely to look to Parliament in case of a deficiency, or in case of obstacles being thrown in the way of the collection, Parliament having once before in such a case interfered, and by a grant from the public treasury, satisfied the debt. But, those statements of his, although he thought them well founded, did not meet with the general acceptance of the House. With regard to one of them, the right hon. Baronet, the Member for Tamworth, made a proposition, by which he proposed to limit the amount to be devoted to this purpose. The first objection which he had stated, was not applicable to that proposal. The right hon. Baronet also entered into a detail as to the manner in which the object was to be accomplished. Now, the motive which induced him and his colleagues to modify the course which he before took upon this subject was, that it did appear to them to be a very general opinion in the House that some sacrifice on the part of the public, of the nature proposed, would tend to the general settlement of this question, and would promote the cause of peace and harmony between the different parties in Ireland. He thought, whatever their opinions were, or whatever his own individual opinion might be, that if there was a feeling in that House on the part of those persons who entertained very different political sentiments, and different sentiments with regard to the Church of Ireland, that a proposition of this kind, of a limited amount, would afford a better chance for the future peace and tranquillity of Ireland, it did not become the Government to stand in the way of such a proposal, but they should endeavour to conform to what they took to be the opinion of the House, and attempt to adjust the subject of the arrears of tithes, and if possible, to set the matter at rest. In the proposition which he would make on this subject, he had thought it in the first place necessary, that he should deviate so far from the right hon. Baronet's proposition as that it should not be optional with the tithe-owners to accept the sum proposed to be granted or not. If they made it optional, and a certain number accepted the offer, and another portion enforced their claims, the main object which he had in view would be defeated, and they would be making a sacrifice to very little purpose. He thought, with regard to another point, namely, the issuing of a commission for the purpose of settling the claims, that the object might, perhaps, be effected by some persons holding official situations. He should now proceed to state the proposition which he intended to make to the House, and upon which he should propose that the House go into Committee, with the view of agreeing to a resolution. The first part of the subject would be the amount of 640,000*l.* which had been already advanced under the authority of a former act to the tithe-owners of Ireland. Combining, as he should do, this proposition with another which would affect the arrears of tithe, since the passing of that act, it did not seem expedient to him to make a proposition similar to the clause of the former act, namely, the doing away with the repayment of this sum by instalments, but that the sum should be entirely remitted and forgiven to the occupying tenant, while the landlords and the persons liable for rent-charge under the present bill should be obliged to pay by instalments, and that the Treasury should be empowered to collect the payments. But when he said, that with regard to the landlords, the sums were to be collected by the Treasury, he did not mean to propose, that the Treasury should collect these sums for the benefit of the State, or that the repayments should finally remain with the Exchequer; what he proposed, was, that these sums should go in part to the satisfaction of those persons who had claims for arrears of tithes, which had accrued since, and which were to be paid by the occupier. The next part of his proposition related to the remainder of the million as connected with the arrears of the tithe composition. The amount was rather different from that which was stated the other day in the course of the debate. As he had already stated, the sum of 640,000*l.* had been actually advanced to the owners of tithes. A further sum had been applied by a subsequent act of Parliament; and in consequence of a loan made by the Treasury out of a sum granted for public works, for the use of the Ecclesiastical Commissioners of Ireland, the Ecclesiastical Commissioners not being enabled to meet the demands made upon them, were allowed to receive 100,000*l.* from the Treasury and by a subsequent act proposed by his right hon. Friend, the Chancellor of the Exchequer, that sum of 100,000*l.* was not to be repaid by the Ecclesiastical Commissioners, but was to be appropriated to public works out of the remainder of the million voted by Parliament; and, therefore, the sum altogether was, not 640,000*l.*, but 740,000*l.* which had been already voted by Parliament. The remaining sum, therefore, was 260,000*l.* What he proposed was, that this 260,000*l.*, together with that part of the 640,000*l.* which might be recovered from the landlords, should be applied to the liquidation of the arrears of the tithe composition for the years 1836 and 1837. He believed he had already stated, and he wished now to state more explicitly, that with regard to the sum of 260,000*l.* and the other sums to be repaid, he proposed, that they should only go to the liquidation of those arrears of tithe composition which were due from the occupying tenant. With regard to the landlords who had undertaken to pay tithe composition, and with regard to those landlords from whom, by the operation of his noble friend's (Lord Stanley's) act, tithe compositions were due—with respect to those persons there should be no remission of arrears. The amount, therefore, of his proposition was this, that to cover the payment of the arrears of tithe composition for the years 1836 and 1837 due by the occupying tenant, there should be applied the sum of 260,000*l.*, the remainder of the million, and that portion of the 640,000*l.* which was due by the landlord, and likewise, he should say, what was due from lay impropriators who held property in their own hands. It was impossible for him to say certainly what these sums would amount to, but he thought he was making a low estimate when he said, that, adding the 260,000*l.*, the whole together would amount to

300,000*l.* He proposed that in consideration of this sum, the whole of the arrears of tithe which now existed, should be at once abolished by this act, and that there should be no claim for arrears of tithes except such as were reserved by this act, It certainly appeared to him, with regard to any arrears that accrued due before the year 1836, that although attempts had been made to levy them, those attempts not having been successful for the last two years, it was not probable that such attempts would be made now; and, in the second place, they could hardly be made after the passing of an act of this kind without exciting resistance and disturbance. He had now, therefore, stated the proposition which he proposed to make on this subject, namely, that the state should grant the sum which he had mentioned for the extinction of the arrears of tithe; and that in consideration of the grant of this sum they should extinguish by law all claims to arrears of tithes which persons might have. In making this proposition he had only to repeat again, that he did not think that he should be justified in withholding a proposition from the House in favour of which there seemed to be so general an opinion that it would tend still further to mitigate the evils attending the collection of tithe composition in Ireland. He would not withhold his opinion that he did not think this proposition one which was so favourable to the Church in Ireland. The objections stated by the right hon. Gentleman the Member for the University of Dublin (Mr. Shaw), upon a motion which arose under the Million Act—objections which at that time did not appear to him (Lord J. Russell) to have been well founded—had certainly since appeared to him to have much weight, namely, that the abolition by law of claims in favour of persons who had resisted the law did tend to a certain degree to weaken the power of those persons who held that particular species of property. He thought, certainly, that it would not be right in him to withhold this opinion, an opinion which evidently was not entertained by those who always in that House professed to be the preservers of all the rights of the Church. There was one thing more. With respect to the future harmony and peace of Ireland he could not but advert to a question which had been put by the hon. Member for Kilkenny concerning what had taken place only a few days ago; it had certainly been represented to him, in a letter which he had received from the Lord-lieutenant that morning, that he had received information that not only were orange flags exhibited upon many steeples, but upon some of these steeples there was the firing of guns or muskets. He could not believe, that it was not in the power of the clergy, if they had taken pains, to have prevented such demonstrations, and he must say, that if under this act, or any other act, they were to look to the future peace and tranquillity of Ireland—if they hoped to allay the hostile feelings that existed between the Protestant clergy and the Roman Catholic people—the Protestant clergy must refrain from demonstrations which, by the great majority of the people, were felt to be an insult. There would really be no chance for the future of restoring peace and harmony in Ireland unless some disposition were shown by persons of both sides to forbearance from all party demonstrations. Unaided by conduct of this sort, the expenditure of ten times 30,000*l.* would not effect the pacification of that country. The noble Lord concluded by moving, that the House resolve itself into Committee upon the 3rd and 4th, William 4th, (the Million Act), and the act for appropriating 100,000*l.* to the ecclesiastical commissioners for Ireland.

Mr. *Hume* put it to the noble Lord and the House, whether the House of Commons had ever entered upon a vote of a million of public money without previous notice given?

Lord *J. Russell* said, that if the hon. Member persisted in objecting to the motion upon that ground, he might, perhaps, be strictly justified; but he thought, that the notice which he (Lord J. Russell) had given of the intention of Government on this subject had, for all useful purposes, been sufficient.

Mr. *Hume* said, it ought not to be him, but the Chancellor of the Exchequer, who should stand forward to protect the public purse; but when he saw that the Chancellor of the Exchequer, instead of interfering, actually connived at the contemplated act of robbery, he was bound to stand forward. He was ready to make any sacrifice which might fairly be expected to lead to permanent peace in Ireland; but he was so convinced that the peace which would be purchased by this grant would only be a truce of a very few months, that he could not for a moment think of consenting to it. It was not upon a mere matter of form that his objection was founded on the present occasion. It was manifestly against all the principles and practice of Parliamentary dealing, to be hurried into grants of this large description without due previous notice. From the statements of the noble Lord, it appeared that the whole of his proposition was in reality that of the right hon. Baronet, the Member for Tamworth, and not of her Majesty's Ministers. His noble Friend had now thought proper to come into the suggestion of the right hon. Baronet; but he totally differed from the noble Lord, as to the sufficiency of the grounds upon which he had done so. All he could say was, that if the two great bodies of Whigs and Tories now joined in thus attempting this act of robbery, they ought at least to give them sufficient notice of it. Under these circumstances, he threw himself upon the House, and begged the protection of its universal rule and practice on the present occasion.

Sir *R. Peel* said, that at this late period of the Session he was not disposed to throw any impediment in the way of this measure on a point of form. At the same time, whilst he should consent to the motion of the noble Lord for going into Committee, he begged it to be understood, that he did not pledge himself to the contemplated arrangement upon the first statement of the noble Lord. The hon. Member for Kilkenny had done an injustice both to the noble Lord and to himself, when the hon. Member said, that the Government had adopted his (Sir R. Peel's) proposition. Whether the noble Lord's proposition was better or worse than his, he would not pretend to say, but it was certainly not his proposition. His (Sir R. Peel's) proposition as he stated it the other day, was to the following effect, namely:—there was about 307,000*l.* remaining out of the million grant, which they had yet to deal with. This sum, or rather a larger sum, 500,000*l.*, he proposed to place in the hands of a commission, who would then proceed to take a review of the arrears due from occupying tenants for the last two years, and, having ascertained their amount, draw a proportion between that amount and the 500,000*l.* in their hands; and, according to that proportion, ascertain what rateable portion per cent. could be offered to the tithe-owners on account of their arrears. Supposing, that the commissioners found they would be able to offer 60*l.* in the 100*l.*, the tithe-owners would be offered this amount, to whom it would be quite optional either to accept the composition, or to resort to the law to recover their whole claim. Having thus explained the proposition which he was inclined to submit, he would not sit down without observing, that he had heard the latter part of the noble Lord's speech with some regret. He thought it would have been a great deal better if the noble Lord had abstained from mentioning the fact, that the Orange flag had floated from the steeples in some parts of Ireland. The noble Lord had frequently declined answering questions relating to Irish affairs, on the ground, that he was not at the moment fully informed on the subject; and he must say, that if the noble Lord had, in the present instance, stated, that he was not as yet informed whether the clergy had consented to these demonstrations, it would have been a sound exercise of discretion. He had no hesitation in frankly avowing, as he always had declared, that whether clergy or landowner, he thought both were alike bound to do all in their power to discourage such party demonstrations. But until it was ascertained, that the clergy had in the present instance acted otherwise, he felt bound to defend them from the general impeachment which the noble Lord had made of them.

Mr. *Irvine* had received a letter from a most respectable gentleman residing in the county of Antrim, assuring him, that no such manifestation as that to which the noble Lord had adverted had taken place in that county, and he thought it right to mention the fact, in order to show the House, that the proceedings of which the noble Lord hadcomplained were not so universal or general as he seemed to believe.

Mr. *O'Connell* wished to know from whence the letter to which the hon. Member alluded was dated? [Mr. *Irvine*: from Lisburne.] It was not a little singular, as Lisburne was near Belfast, where the troops had been actually called out to quell the rioters after they had broken the windows of the house of the Roman Catholic bishop, and committed other outrages.

Mr. *Dunbar* said, that the occurrence which took place in Belfast, so far from being deserving of the name of a riot, was nothing more than a momentary disturbance which sprang up among a parcel of boys while at play.

Captain *Jones* said, that the noble Lord was not the only Member of that House who entertained the belief, that such displays had taken place, but it was no more than was due to the clergy of Ireland to state, that so far from encouraging the exhibition of hoisting flags on the day in question, they did all in their power to prevent it.

Mr. *Ward*, as they seemed to be diverging from the real question before them, felt it his duty to recal their attention to the object which his hon. Friend, the Member for Kilkenny, had in view. For his own part he did not believe, that the proposition of the noble Lord would lead to an adjustment of this question, and he must add, that he concurred with his hon. Friend in thinking, that it would prove nothing better than a delusion on the people of that country. It was true, that the Government plan was less objectionable than the plan of the right hon. Baronet, the Member for Tamworth, but still, when there was a million of money to be dealt with, he did not think they would be justified in departing from the rules of the House. They were not voting upon an abstract principle, but the application of the public money for church purposes; and as the Government had inverted the principle with which they set out, it was only right, that proper time should be given for the consideration of this new proposition. He hoped his hon. Friend, the Member for Kilkenny would persist in his motion, and if he did he should have his support.

Mr. *Lucas*, on the part of his side of the House, must disclaim the imputation which the noble Lord had thrown out against them. He denied, that they were desirous of encouraging resistance to the payment of tithes, and, for his own part, he would not concur in any plan the object of which was not to do justice to all parties. With respect to the noble Lord's plan, he was not to be considered as pledged in any way to it, and should he have objections to it, he should claim his right of urging them hereafter.

The *Chancellor of the Exchequer* said, that although the Government had considered the plan of his right hon. Friend, the Member for Tamworth, they had not adopted it. The question now, however, was, how could the Government most conveniently put the House and the public in possession of their resolution, with a view to its being fully understood. The whole difficulty arose out of the want of notice, for if his noble Friend had, during the morning sitting, when this subject was last before the House, stated his intention of going into Committee on the resolution that night, the present objection could not exist. But what was the object which the Government had in view? Why, to give the House information, and this could only be done by enabling them to bring forward the clauses, with a view to their being printed and circulated, by which they meant to carry their intention into effect. For this purpose it was indispensable, that they should go into Committee on the resolution, and, then, when the clauses to be founded on it were brought in and printed, hon. Gentlemen would be able to see the whole scheme by which the Government intended to carry their proposition out. At the earliest, no discussion on the subject could take place before Thursday; and as that was the case, and as without knowing what the plan was, they could not decide upon it, he hoped his hon. Friend, the Member for Kilkenny would not persist in his opposition.

Mr. *Warburton* said, that what his hon. Friend, the Member for Kilkenny, wished was, that the resolution should be proposed without pronouncing any opinion upon it at present. This could be done if the Chairman were, as soon as it had been proposed, to report progress, and ask leave to sit again to-morrow. So far from there being unanimity of feeling on the part of the House with respect to this proposition, he believed, there were many hon. Members on both sides who strongly objected to it. Even the right hon. Baronet, the Member for Tamworth, gave it only a qualified assent, for, though he concurred in the principle involved in it, he kept himself wholly unfettered as regarded the details. Such being the state of the case, he must express it as his opinion, that the course pursued by his hon. Friend, the Member for Kilkenny, was a proper one.

Sir *E. B. Sugden* said, that the original resolution, with respect to compensation, was brought forward for the relief of the clergy of Ireland exclusively, and as he had some difficulty as to the extending this principle to the other tithe-owners, he should like to see the point properly considered.

Mr. *Harvey* said, that his hon. Friend, the Member for Kilkenny, did not seem to understand what had fallen from the right hon. Gentleman, the Chancellor of the Exchequer, as it was clear, from what the right hon. Gentleman had said, he had no wish, that any opinion should be pronounced at the present time on the Government proposition. It was, indeed, impossible, that the right hon. Gentleman could expect such a thing, and, therefore, what he said was, that when the resolution was brought in, the Government would allow that House and the country sufficient time to reflect upon it. Without having before them the resolution and the machinery by which it was to be carried into effect, it was impossible, that they could take the matter into consideration; but as regarded the proposition itself, all he could say was, that this country would be as much astonished at it as the Government themselves were, when they first heard of it on Friday night. The right hon. Baronet, the Member for Tamworth, had dexterously led the Government into this plan, but now he as dexterously avoided pledging himself to it. He liked his own plan, but not that of the Government, and he predicted, that the only advantage which the Government would derive from the course which they had taken, would be an increase of unpopularity.

Lord *J. Russell* would not object to the course suggested of going into Committee, proposing the resolution, and taking the subject into consideration at a future period.

Lord *Stanley* said, that there was a point on which he was desirous of information. If he understood the noble Lord rightly, he proposed to remit the 640,000*l.* which had been advanced to the clergy where the clergy had abstained from levying from the landlord or occupying tenant any part of the arrears due to them. Did the noble Lord mean, that the Government might levy that amount only which was due to the clergy from the landlord, and not from the occupying tenant? By the Million Act under which the advance was made, the party liable was defined; but when that act did not come into operation until 1834, and in 1833 the liability for the tithe rested, not with the landlord, but with the occupying tenant. He might be labouring under some mistake, but it was, at all events, right that the House should know the amount of remission on which they could reckon.

Sir *R. Peel* said, that there was another subject of misapplication on which the noble Lord ought to obtain information. He would not ask any question at present relative to it, but merely say to the noble Lord, that he ought to obtain some information as to the 100,000*l.* which had been granted to the Ecclesiastical Commissioners.

Mr. *Hume* wished to know if it were intended to excuse those landlords who were occupiers from the repayment of the advances which had been made to them?

Lord *J. Russell* said, that they were not to be exempted. With respect to what had fallen from the noble Lord opposite, all he could say was, that in many cases, the landlord would be liable to the repayment of the instalments, and that in many others, the advances, for instance, to lay impropriators were not made recoverable. He should be very glad to find, that the Ecclesiastical Commissioners were in a condition to refund the 100,000*l.* alluded to by the right hon. Baronet, the Member for Tamworth.

House in Committee.

Lord *J. Russell*, having proposed the resolution, which was agreed to, and the House having resumed, moved, that the House should go into Committee on the Tithes (Ireland) Bill, for the purpose of considering the remaining clauses of the Bill. House in Committee.

On Clause 9,

Mr. *Lefroy* rose to propose the omission of clauses from 9 to 19, and to substitute for them one clause which he had prepared. These clauses proposed to open all compositions. He thought that any attempt to open these compositions would lead to great inconvenience and injustice. If they opened the compositions under Goulburn's Act they must go back to a period so remote as 1814. That act was passed in 1821, and the compositions were founded upon the average of the preceding seven years. Now if they re-opened these compositions they would be obliged to take the average over again, beginning at 1814. Now the Goulburn Act gave the right of appeal under proper restrictions, and wherever there had been ground of objection appeals had been made. Under the Stanley

Act a right of appeal was given in all cases of voluntary composition, and several appeals had taken place. This Bill, however, proposed to open all compositions, whether they had taken place under voluntary composition or by means of commissioners. Now it should be recollected that since those compositions had been originally made, several of the incumbents had died and had been succeeded by others. There was no record existing, in many instances, of the principle on which these compositions had taken place. There was no calculation by which to be guided, and it was easy to conceive the difficulty to which opening compositions that had so long ago taken place would now lead. But this Bill also proposed to open the compositions that had taken place under the Stanley Act. Now under the powers given by this act no less than 39 appeals had taken place, and of this number three only had been allowed. When such ample opportunity of appeal had been given, there was no ground to suppose, that these compositions had taken place on any extravagant valuation. He (Mr. Lefroy) proposed to exclude from the operation of the present Bill all the compositions which had been made under the Goulburn Act. He had no objection, in a limited manner, and under certain restrictions, to allow the more recent compositions under the Stanley Act to be renewed. He would conclude by moving the omission of the clauses from nine to nineteen, and he would move, to substitute instead, one clause providing for the review of the compositions in the limited way that he had stated.

Viscount *Morpeth* would not deny, that there was some force in the arguments of the right hon. and learned Gentleman with respect to the inconvenience of opening compositions made at a period far back. These arguments had been submitted to the Committee in former sessions and notwithstanding the Committee felt, that it would be desirable to continue the power to re-open these compositions, he admitted, that there would be considerable inconvenience and anomaly in opening cases decided so long ago, and in which a power of appeal had been given. But then the anomaly did not affect any side of the question in particular. However, there were, he believed, several cases of great hardship, and with a view of making a permanent and enduring settlement of the tithe question, he thought it would be for the advantage of all parties, that a power of appeal should be given. Now this view was not confined to one side of the House, but appeared to be felt by the Gentlemen opposite. In his amendment the right hon. Gentleman proposed to leave the power of appeal in a certain class of cases under the Act that went by the name of Lord Stanley's Act. An objection had been made to allow appeals in cases where there had been voluntary composition, but he thought voluntary an erroneous term to apply to compositions where parties merely gave their consent that a composition should be made without any agreement as to the amount of the composition. These compositions had not been made with reference to any amount of payment that had been previously made, but with reference to sums agreed or adjudged to be paid, and besides this the commissioners were given a power at their own discretion to add one-fifth of the whole amount. Now, in many cases, they could not do substantial justice unless they allowed the compositions to be re-opened. The difficulty of going back to 1814 would not be so great as was imagined, as the averages would all be found published in the *Dublin Gazette.* The right hon. Gentleman had said, that he was willing to give an appeal in any case of fraud or concealment, but he said also, that he wished that the appeal should be limited to the Lord-lieutenant and Privy Council. Now he (Lord Morpeth) thought, that it would be a great advantage and convenience that the parties should go before a barrister, who would inquire upon the spot, with a facility of hearing evidence at both sides, and a great saving both of time and of expense to the parties. The Government had been anxious so to guard the bill, as that there would be no chance of any appeal which was not *bona fide*, and made upon the strongest grounds. The Government were more liable to the charge of having almost frittered away the power of appeal than of having unnecessarily enlarged it.

Mr. *Goulburn* urged upon the Committee the inconvenience and danger of disturbing engagements which existed under an act of the Legislature, and so far shaking the public confidence in the faith of an Act of Parliament, Nothing could be more dangerous than to introduce such a principle. With respect to the compositions made under the Act that went by his name, both parties chose a commissioner, and the composition was the result of their mutual voluntary agreement. Now, in many instances since these compositions had been made in 1821, the original incumbents had died, and had since had, in some instances, two or more successors, who came into the receipt of their income upon the faith of an existing agreement. Were they now to be called on to have that agreement re-opened without having the means of bringing forward evidence with respect to transactions that occurred in the time of their predecessors? It was easy to see the inconvenience to which this would lead in Ireland, considering the spirit of resistance to the payment of tithes, which at present prevailed there. He had continued to reside in Ireland from the passing of that act until 1827, and so far from any complaints against the working of that Act, there was, on the contrary, throughout the country, a general feeling of obligation towards the Government, for the advantages which had resulted from it. He repeated, that it would not merely be doing injustice to individual parties, but it would be introducing a most dangerous principle at this distance of time to re-open agreements that had been entered into with the voluntary consent of both parties, and upon the faith of an Act of Parliament.

The *Chancellor of the Exchequer* thought that the apprehensions of the right hon. Gentleman were exaggerated. If the alteration proposed interfered with agreements made under the right hon. Gentleman's Act, he should support them with very great reluctance; but as they only contemplated revision in cases where compositions had been unfairly effected, he could not see that their adoption would impose any hardship on the clergyman. The right hon. Gentleman should recollect that the application for revision was not to come from the majority of numbers in the parish, but from the owners of the greater value; and this being the case, he did not think there need be any apprehension that the application would be made on unjust or trivial grounds.

Mr. *E. B. Roche* did not object to the clauses as going too far, but of not going far enough. That abuses had taken place under Mr. Goulburn's Act he needed no further proof than the petition he had had the honour of presenting a few nights since. That was a petition from the parishioners of Castle Island, stating, that their Rector, the very rev. Archdeacon Ryder, had, by fraud and collusion, procured an unfair composition under Goulburn's Act. It appeared by that petition that the Archdeacon claimed 1,856*l.* as composition, and that his own Bishop, on being referred to as arbitrator, awarded him only 1,450*l.* This showed the necessity for revision.

Mr. *Lucas* thought, that this case, if established went wholly to support the view of his right hon. Friend, (Mr. Lefroy). As even in a case where the parishioners had a right of appeal to the law they waived that right and preferred arbitration.

Mr. *Sheil* said, that the facts contained in the petition mentioned by his hon. friend (Mr. Roche,) were, that the Bishop of Cloyne on having the matter referred to him awarded the Archdeacon 1,450*l.* instead of 1,865*l.* his claim. From this the right hon. Gentleman opposite might conclude, that the Archdeacon since that time had received only 1,450*l.*, abiding by the arbitration; but what were the facts? He took the 1,450*l.* until 1832, but when the million was granted, he claimed, and obtained, the proportion of his own claim, 1,856*l.*, and afterwards made his success in that matter a ground for enforcing the same amount from his parishioners. Surely such a case as this afforded some grounds for revision. He could not vouch for the statements in this petition as facts. Revision was absolutely necessary, if it were only from the fact of the time allowed by the right hon. Gentleman's Act being so short as to have caused great injustice and hardship. With respect to the hardship of interfering with settled agreements, he did not think it would be very great, as the clergyman could always rest on his composition, andthe applicants would be obliged to produce facts before they could shake it. The fact was, that they were now putting the burden on the landlord, and they should give him every opportunity and facility for revision when revision was necessary. In 1823 Ireland was completely infested with tithe-proctors, and he must do the right hon. Gentleman opposite the justice to say, that his act went a great way to extinguish them; but at the time the composition was settled those proctors were the acting parties for the clergymen, and they arranged the compensation, not according to the standard of the net sum which the clergyman had hitherto received, but according to what they had been able by every device to extort from the peasantry.

Mr. *Hume* was very much surprised at the opposition given to the proposal of the noble Lord, because as the right hon. Gentleman opposite must recollect, on the introduction of Mr. Goulburn's Bill the grounds advanced for its adoption were—that there must be a revision every fifteen years.

Sir *R. Peel* said, that the hon. Gentleman had just awoke from a dream of fifteen years, and forgot entirely what had occurred in the interval. Mr. Goulburn's Act certainly provided for a revision at the end of twenty-one years, but the answer to that was, that since the time of its passing another act had been passed by the noble Lord, the Member for North Lancashire, and by that the compositions were made permanent. It appeared to him that the case of Archdeacon Ryder should be put entirely out of consideration; from reading the petition he did not clearly understand the case, and certainly before any inference unfavourable to that clergyman was drawn, the allegation should be substantiated by proof. He did not understand how Archdeacon Ryder contrived to get 1,840*l.* out of the million, still less how he continued to enforce that claim from the tithe-payer. Why had not the parishioners appealed to the Privy Council, as they were empowered to do by Lord Stanley's Act. [Mr. *Hume*:—The case occurred in 1832.] The parishioners complained that there was a discrepancy between the statement of the Bishop's award and the Archdeacon's, the Archdeacon's stated that award to be 1,450*l.*, provided all the rates were regularly paid, while the parishioners insisted that it was absolute. This was a very material difference, and sufficient to make them put the case entirely out of view until the real facts were ascertained. He objected to the proposal altogether, because he thought that the reopening of an agreement made under the sanction of an Act of Parliament would have a tendency to shake all agreements similarly circumstanced. He would venture to say, that, if the proposal were made in England or in any other country than Ireland, or in any other case than that of the Irish Church, it would be scouted out of that House. The hon. and learned Gentleman alluded to the opposing interests of tillers and graziers; but those opposing interests in reality formed an effectual check to the claims of the clergy. The case was never left with either clergyman or parishioner, whether tiller or grazier, but referred to some respectable men as arbitrators. Under these circumstances, although in the case of a single parish, which could prove an improper arrangement, he would be willing to grant a revision; yet, to extend it beyond—to an extent, in fact, almost unlimited—appeared to him a measure fraught with danger to the title of every property that depended on the sanction of an Act of Parliament. On these grounds he should refuse to open the composition.

Mr. *O'Connell* said, they were all agreed as to the desirableness of correcting frauds, and the only question was, the extent to which they should go in endeavouring to do so. It would undoubtedly be a fraud if the tithe-owner were allowed to receive one-fifth more than he had a right to, and it was not too much to ask for the power of appeal in cases of existing imposition, when the tithe-owner was receiving 20 per cent. more than he ought properly to receive. Surely this was fair, and when a proposition was made for what hon. Members contemplated as a final and perpetual settlement of the question, they should not leave in the bill that which would be the cause of future collision and contests. When the tithes were sprinkled with blood as had been the case at Rathcormac and elsewhere, it was not to be wondered at if re-action should take place. Hon. Members should learn experience from the past, and endeavour as much as possible to remove all cause of complaint. If by any of the existing compositions the tithe-owner received upwards of 20 per cent. more than he ought to receive, the composition must have been a fraudulent one.

Lord *Stanley* contended that the clauses if agreed to would allow the compositions to be opened if it were alleged that they exceeded even by the amount of a single halfpenny. It would be too hard thus to open compositions which had been entered into nearly twenty years ago. Legal inquiries would be instituted, barristers sent down, and the clergyman would be saddled with all the expenses of an inquiry into a composition made by his predecessor upon views and statements which could not be now adduced. It had been asserted that there was no valid appeal under the existing law, and this in the teeth of several instances where appeal had been made, and made successfully. In his opinion it would be most unwise to re-open compositions which had been made at a time when no agitation existed, and made too, after cool deliberation on the part of those who entered into the contract. Such a proposition was calculated to shake the very foundation of property, and he, for his part, could not agree to the extent of the provisions made upon this point by Government.

Sir *E. Sugden*, as allusion had been made to the affair of Rathcormac, would take the liberty of saying a few words on the subject. The hon. and learned Member for Dublin had published it to the world as his opinion, that the homicides which had taken place at Rathcormac were murders. Now, he would as a lawyer, state his opinion on the subject. He would state to the House that the opinion published by the hon. and learned Gentleman was not founded in law, and the publication of that opinion had been productive of great mischief in Ireland.

Mr. *O'Connell* admitted, that he was not so fortunate a lawyer as the right hon. Gentleman. With respect to the opinion which he gave in the transaction at Rathcormac, it was given after he had been consulted upon the subject professionally, and if those who consulted him thought fit to publish the opinion which he gave, he could not prevent them. By that opinion, however, he would still stand. From the statement made to him when he was consulted upon the point, it appeared that a more foul and horrible murder had never been committed. It was a murder most base and horrible. From the statement made to him it appeared that the field was enclosed. [Sir *E. Sugden*—No, No.] He was glad to hear that denial. The right hon. Gentleman was too good a lawyer not to know the value of the fact. Eleven witnesses proved to the enclosure. There certainly was trespass, and a murder had been perpetrated, which was still unavenged. For his part he was glad that the question of enclosure had been agitated by so eminent a lawyer as the right hon. Gentleman. In charging the case as a murder he did not mean to impute anything to the soldiery who were employed on the occasion. They only acted in obedience to orders. When the army were employed in Ireland they never exceeded their orders. The observations of the right hon. Gentleman, so far from overthrowing, vindicated his opinion. Murder had been done in the case at Rathcormac, and many others had been committed in Ireland, without retribution. In Rathcormac seven human lives had been lost for a sum of three shillings and fourpence. Such a thing could not occur in any other country in Europe.

Sir *E. Sugden* was sorry this question had arisen, but by whom was it raised? By the hon. and learned Gentleman opposite, who could not regret more than he (Sir E. Sugden) what had taken place at Rathcormac. The hon. and learned Gentleman might turn round and cry "Oh," but he did not care for the hon. and learned Gentleman's acting. It would have no effect but to lessen the respect which he might otherwise feel for him. The hon. and learned Gentleman had given his opinion, and it was published, with his name attached to it. On what ground did the grand jury ignore the bill? It was an easy matter for an hon. Member in his place in that House to detract from the purity of a judge, and the integrity of a jury; but such a proceeding would reflect little credit on him who did so. The hon. and learned Gentleman said there was an enclosure. This he denied. There was no enclosure; but, on the contrary, there was fair access. There was an open way which was blocked up from the inside by carts and other obstructions, which it was quite lawful to remove. Again, he would insist that, in point of law, there had been no murder.

Mr. *O'Connell* said, that the right hon. Gentleman could not have read the charge of Justice Foster, who did not use the argument of there being no enclosure. The speech of Judge Foster, which was a long and rambling one, made no allusion to an enclosure. He had done that learned personage injustice, forsooth. A man who had been twenty-five years a barrister without a brief, and was then by a hop, step, and jump, transferred to the bench. With respect to the question of enclosure, there was a Gentleman in the House who had seen the spot, and could testify to the enclosure. He was glad that the question had been raised, as it elicited an opinion from the highest Chancery lawyer England ever produced, that if the place was enclosed a murder had been committed.

Mr. *E. B. Roche* knew the haggard, and could state distinctly, that it was as well inclosed as any other haggard in Ireland. He saw it before and after the transaction, but was not there at the time when the murder took place. He agreed with the hon. and learned Member for Dublin in characterizing it as a most foul murder.

On the Question that the clause, as amended, stand part of the bill, the Committee divided. Ayes 103; Noes 88: Majority 15.

List of the AYES.

Aglionby, H. A.
Archbold, R.
Baines, E.
Bannerman, A.
Barnard, E. G.
Blake, M. J.
Blake, W. J.
Bowes, J.
Brabazon, Lord
Bridgman, H.
Briscoe, J. I.
Brotherton, J.
Bryan, G.
Campbell, Sir J.
Chalmers, P.
Childers, J. W.
Clements, Lord
Collins, W.
Crawford, W.
Crawley, S.
Curry, W.
Dalmeny, Lord
Duckworth, S.
Easthope, J.
Ebrington, Lord
Evans, G.
Finch, F.
Fitzgibbon, Col.
Fleetwood, Sir P.
Gordon, R.
Grattan, J.
Grey, Sir C.
Hall, Sir B.
Handley, H.
Hawes, B.
Hawkins, J. H.
Hayter, W. G.
Hector, C. J.
Hobhouse, rt.hn.Sir J.
Hodges, T. L.
Hoskins, K.
Howard, P. H.
Howick, Lord
Hume, J.
Hutt, W.
Hutton R.
James, W.
Jervis, S.
Langdale, C.
Lefevre, C. S.
Lynch, A. H.
Macnamara, W.
Maher, J.
Melgund, Lord
Mildmay, P.
Morpeth, Lord
Morris, D.
Muskett, G. A.
O'Brien, W. S.
O'Connell, J.
O'Connell, D.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Ord, W.
Parker, J.
Parnell, Sir H.
Pechell, Capt.
Pendarves, E. W.
Philips, G. R.
Power, J.
Pryme, G.
Reddington, T. N.
Rich, H.
Roche, E. B.
Roche, Sir D.
Rolfe, Sir R. M.
Russell, Lord J.
Salwey, Col.
Seymour, Lord
Smith, R. V.
Somerville, Sir W. M.
Stanley, E. J.
Stansfield, W. R. C.
Stewart, J.
Strangways, J.
Thompson, C. P.
Thornely, T.
Townley, R. G.
Troubridge, Sir E.
Vigors, N. A.
Wallace, R.
Warburton, H.
Westenra, J. C.
White, A.
Williams, W.
Williams, W. A.
Wilshere, W.
Wood, C.
Wood, Sir M.
Wood, G. W.
Wyse, T.
Yates, J. A.

TELLERS.

Steuart, R.
Sheil, R. L.

List of the NOES.

A'Court, Capt.
Bagge, W.
Ballie, Col.
Baker, E.
Baring, hon. F.
Bateson, Sir R.
Blackburne, I.
Blennerhasset, A.
Bramston, T. W.
Broadley, H.
Brownrigg, S.
Bruges, W. H. L.
Chandos, Marq.
Chute W. L. W.
Codrington, C. W.
Compton, H. C.
Coote, Sir C. H.
Corry, hon. H,
Dalrymple, Sir A.
Darby, G.
De Horsey, S. H.
Dunbar, G.
Eastnor, Lord Visc.
Eaton, R. J.
Egerton, W. T.
Estcourt, T.
Fellowes, E.
Filmer, Sir E.
Freemantle, Sir T.
Gladstone, W. E.
Gordon, hon. Capt.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Greene, T.
Grimsditch, T.
Grimston, hon.E.
Grimstone, Visct.
Hale, R. B.
Hawkes, T.
Hayes, Sir E.
Herbert, hon. S.
Hinde, J. H.
Hodgson, R.
Hogg, J. W.
Holmes, W.
Hope, hon. C.
Hope, G. W.
Hotham, Lord
Hurt, F.
Ingham, R.
Jermyn, Earl
Jones, T.
Kelly, F.
Knightley, Sir C.
Lockhart, A. M.
Lucas, E.
Mackenzie, T.
Mahon, Lord
Meynell, Captain
Nicholl, J.
Norreys, Lord
Packe, C. W.
Pakington, J. S.
Palmer, G.
Parker, R. T.
Parker, T. A. W.
Peel, Sir R.
Peel, J.
Perceval, G. J.
Polhill, F.
Powell, Colonel
Praed, W. T.
Pusey, P.
Rose, Sir G.
Rushbrook, R.
Somerset, Lord G.
Stanley, Lord
Sugden, Sir E.
Teignmouth, Lord
Trench, Sir F.
Tyrell, Sir J. T.
Vere, Sir C. B.
Villiers, Lord
Vivian, J. E.
Wodehouse, E.
Wood, T.
Young, J.

TELLERS.

Perceval, Col.
Lefroy, rt. hon. T.

Clause added to the Bill.

Remaining Clauses agreed to, and Report to be brought up.

House resumed.

HOUSE OF LORDS,

Tuesday, July 17, 1838.

MINUTES.] Bill. Read a third time:—Dean Forest Mines; and Dean Forest Encroachments.

Petitions presented. By Lord REDESDALE, from a place in Shropshire, against any Appropriation of Church Property to other than Ecclesiastical purposes; and from Clergy of Northumberland, against certain parts of the Benefices Pluralities Bill.—By the Earl of GOSFORD, from Youghal, in favour of the Municipal Corporations (Ireland) Bill.

APPOINTMENTS IN CANADA.] The Earl of *Winchilsea* begged leave to ask the noble Viscount, whether any information had been received by her Majesty's Ministers as to the appointment of the Gentleman, Mr. Gibbon Wakefield, to whom he had last night alluded? He had also to ask, whether the information reported in the public press was correct, namely, that Sir John Colborne had resigned the command of her Majesty's troops in Canada? and whether it was true, that the Earl of Durham had applied for an additional military force?

Viscount *Melbourne* said, he had received no information on the subject of the appointment alluded to. As to the resignation of Sir J. Colborne, he believed it was true. He was not aware of any alteration in the situation of Canada, that called for an increase of the troops in that colony.

The Earl of *Winchilsea* wished to know whether her Majesty's Ministers, had received any communication from Sir John Colborne, on the subject of his resignation? In the present situation of Parliament, when they were on the point of separating, and when they saw this important colony so peculiarly situated, he thought that this country had a right to expect full information on every point connected with it. He could not doubt for a moment the appointment of one of the persons to whom he had before adverted, and he should now ask the noble Viscount, hoping to receive from him a plain answer, whether such an appointment as that to which he had referred in the second instance had taken place, or was likely to take place? He should say, if two such appointments did take place, that he would not be worthy of holding a seat in that House, if he allowed the session to pass without calling their Lordships' attention to the subject, and taking the sense of the House upon it.

Viscount *Melbourne* said, he certainly did not think, that the appointment last referred to by the noble Earl had taken place. He repeated, that there was nothing in the present situation of the colony, that required a reinforcement of troops. As to the resignation of Sir J. Colborne, it was no doubt true, that the gallant officer had requested that an arrangement should be made, to enable him to relinquish the command in Canada.

Conversation ended.

JUVENILE OFFENDERS.] The Marquess of *Lansdowne* in moving, that the House should go into Committee on the Juvenile Offenders Bill, stated, that as the measure was one of much importance, he felt it necessary to explain its nature and object. Their Lordships must be aware, that for many years past there had been a very great increase of juvenile offenders—that was, of offenders under twelve years of age. This, it had been remarked, was the case in every part of Europe, but to a greater degree in this country than in other states. A laborious inquiry had been instituted, in order, if possible, to ascertain the probable causes of this increase of crime. By some it was attributed to the rapid increase of the population, and the growth of large manufacturing towns, while others found some peculiar circumstances in the state of society in England, which they were of opinion occasioned the evil. But, whatever the cause might be, the increase of juvenile depravity was most appalling. As the result of an inquiry made in one great manufacturing town, that of Manchester, it was ascertained, that in four years the number of children absolutely abandoned or found lost in the streets amounted to 8,610. In 1832, there were 1,954; in 1833, 2,104; in 1834, 2,117; and in 1835 they amounted to the enormous number of 2,435.* With respect to the commitments of juvenile offenders throughout the country, the result had been, as taken from accounts lately made up, that in the last two years 5,174 males and 1,275 females under the age of 16 years were committed for various crimes, the average of the two years being 2,587 males, and 637 females. The ratio in London was still greater. For many years it had been in contemplation to establish prisons particularly adapted to criminals of this description, with a view to their reformation. If anything were wanting to show the necessity of such a course being adopted, it was to be found in the inadequacy of the existing prisons, for the attainment of such an object. There was no want of attention or of a desire on the part of those to whose custody these unfortunate criminals were consigned, to provide as far as they could, for their separation from old and hardened offenders. But the committee which had inquired into this subject were of opinion, that those prisons, though suited for the correction of adult criminals, were not fit places for the custody or the reform of offenders of a tender age.

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* A similar statement was formerly made in Parliament, and subsequently explained, that the number of children represented as abandoned in Manchester, was merely the number found without protectors in the streets who were taken care of by the police, and in the great majority of cases were restored to their parents.—See vol. xxxiv, p. 1130, vol. xxxv. p. 91. (Third Series.)

The Duke of *Richmond* observed, that a Committee of their Lordships' House had decided against the propriety of confining the children together in hulks, where crimes had been committed to an alarming extent; and suggested that they should be confined either in barracks, or elsewhere on shore, up to the period of their transportation.

Bill went through Committee.

The Report to be taken into consideration on a future day.

PARTISAN MAGISTRATES.] Lord *Wharncliffe* rose, pursuant to notice, to move for a copy or copies of any petition, memorial, or other communication made to the Lord Chancellor, from any person or persons residing at Leeds or its neighbourhood, or in the wapentake of Skyrac, respecting the insertion of certain names in the commission of the peace for the West Riding of the county of York. Their Lordships would recollect, that a short time back, his noble Friend, the lord-lieutenant of the West Riding of the county of York, moved for certain papers connected with the insertion of certain persons' names in the commission of the peace in the West Riding of the county of York, and he should not have thought it necessary to follow up that motion, had it not been for what had fallen on that occasion from the noble Baron, the Chancellor of the Duchy of Lancaster, which, if allowed to pass unnoticed, would be likely to do great injury to the course of justice. The case of the West Riding to which his noble Friend had alluded, he would endeavour to state to their Lordships, and he thought he should not find it difficult to show, that the names in question had been inserted for the express purpose of introducing into the magistracy political partisans. The borough of Leeds contained several townships, and their Lordships well knew, that by the Municipal Corporations Act, the borough of Leeds had a separate commission of the peace; and that the borough magistrates did the whole duty in the borough of Leeds, the county magistrates having no power to interfere. Now, on the 23rd of February, 1836, he had brought before their Lordships several appointments which had taken place under the Municipal Corporations Act; and he then endeavoured to show, that the power of appointing magistrates under that act, had been undoubtedly used for party purposes, and to the exclusion of proper persons who ought to have filled the office of magistrates. It so happened, that twenty-two persons were named upon the commission of the peace for the borough of Leeds; and out of those, seventeen were of Government politics, and four others were very unlikely to act at all; leaving, therefore, seventeen Whigs to one Conservative in the magistracy. Now, he should not have objected to the appointment of these individuals, who were certainly very respectable persons, if it had not been the case, that Leeds was a borough before the Municipal Corporations Act passed; and if other individuals had not acted as borough magistrates with acknowledged ability and impartiality, who were therefore in some sort subjected to an affront by an exclusion from the new commission, simply because they differed in politics from a majority of the persons who composed the town-council. He came now to the appointment of magistrates for the West Riding. He would show what was the amount of business transacted by the borough magistrates; and he would add, that he had yet to learn, that the business was performed negligently, or with any thing else, but impartiality. It appeared, that a petty session was held at Leeds one day in every week, on the Tuesday; and the return of cases heard from January, 1837, to January, 1838, was but 200; averaging four cases weekly, and without any prospect of increase—the hours of attendance for the magistrates being from half-past twelve till about three o'clock. He thought that this showed, that as far as the business of the borough of Leeds went, there was no great necessity for any increase in the number of magistrates for the West Riding. There were eighteen magistrates, of whom eleven attended, three did not act, although they had qualified, and four had not qualified at all. Well, then came the new commission; and when it came, his noble Friend (the Earl of Harewood), was quite ready to attend to any application which might have been made to him, showing, that magistrates were wanted in any particular part of the county. He could bear witness, that his noble Friend had frequently inserted the names of persons in the commission of the peace, who were adverse to him in politics, merely on the ground that magistrates were wanted in any particular part of the country. He had himself often recommended gentlemen of politics different to his own to his noble Friend, for from the friendship and intimacy which had so long subsisted between them, and the length of time during which he had been connected with the administration of justice, his noble Friend did him the honour to ask his advice occasionally, and to pay some attention to his suggestions; and he could say, that his noble Friend had never exhibited the slightest hesitation in complying with such a recommendation. No application, however, was made to his noble Friend; but, curious enough, he was told to be prepared for the circumstance that had since taken place; for his informants told him, that they knew that an intrigue was going on to put certain persons in the commission of the peace. As he had said before, no application was made to his noble Friend; and the first thing he heard about the matter came in a letter from the noble and learned Lord on the Woolsack, asking, if his noble Friend had any objection to the nomination of those gentlemen. Now, what he wanted to know was, what were the grounds on which this nomination was made. He wished to know, whether it had been represented to the noble and learned Lord, that there was any want of magistrates, or whether the magistrates had been negligent in the execution of their duty; and if not, then he could only suppose that certain persons in Leeds were desirous of advancing the interests of a particular party in that town, and that the whole was a party move from first to last. It so happened, that every one of the gentlemen appointed lived in the borough of Leeds; and all, he believed, within the very town itself. They had no connection with the county, and were all merchants in Leeds, and, therefore, if they were to be put in the commission of the peace at all, they might have been put in the commission of the peace for the town itself. He thought it impossible to say, that the commission of the peace under the municipal corporations, was fairly constituted; and yet the noble and learned Lord, and the Chancellor of the Duchy of Lancaster had said, in that House, in as many words, that if they found the magistrates to be all on one side, they would appoint persons on the other side, in order to make a balance. They said, that it was not in human nature for persons to be satisfied with the decision of a bench of magistrates who were opposed to them in politics. He believed that it was no such thing, and that the applications of individuals to the magistrates had nothing whatever to do with politics. He believed, that parties did not care one snap of the finger what were the politics of the magistrate to whom they addressed themselves, provided that their complaints were heard and adjudicated on with impartiality. He would say, therefore, that this principle of putting magistrates on the Bench in order to restore a balance was most injurious. He wanted to know where it would end? If the noble and learned Lord corrected and doctored the commission of the peace according to his taste, his successors might do the same. The noble and learned Lord would not be Lord Chancellor for ever. Were other persons holding the same situation to follow the same course? But the noble Baron the Chancellor of the Duchy of Lancaster went further than the noble and learned Lord. He said, that if there were magistrates on the Bench of particular religious opinions, he would take care to place others upon it who entertained different views on that subject. Now, the principle for which he contended was this—that it was never meant that in the appointment of a magistrate an inquiry should be instituted into his politics or his religion, but into his character, his station in life, and his education. He had thought it right to state this, because he did think that the assertion of a contrary principle, coming from high authority in that House, must do a great deal of harm out of it, and that these references to politics must tend to shake the confidence of the people in the administration of justice by the gentlemen of the county. He had reason to know that the course of conduct which had been adopted in the case of the Leeds magistrates had produced much agitation in other parts of the West Riding. He knew that there had been other applications to the noble and learned Lord to appoint fresh magistrates, on the ground that the present magistrates were Tories, and a most curious memorial had been addressed to the noble and learned Lord by the vestry of Marylebone, in which they found no fault with the present magistrates, who were, as they said, all very well, but in which they desired to have persons appointed whose opinions and habits, to use their own words, were in accordance with those of the great bulk of the inhabitants. This was the case in Marylebone, and this was what he had reason to know had taken place in other parts of the country. He had framed his motion for a copy or copies of any petition, memorial, or communication, addressed to the Lord Chancellor from any person or persons residing in Leeds or its neighbourhood. He was, however, not sure whether any petition or memorial had been transmitted. He, undoubtedly, thought there ought to have been, but perhaps there was merely a private communication; and if so, he should be the last man in the world to require that it should be divulged. He could not, however, help saying that, as it would appear, the Member for Leeds had been in communication on the subject with the Secretary of State, and that he had been the person who had furnished the list. He did not think, that persons who had stood more than one contested election were exactly the fittest parties to recommend individuals for the Bench. There were, however, persons in the town who were constantly (and he spoke from his own knowledge) about the Home-office, and who attempted to drive these matters, and who were not satisfied with having obtained corporations. How those persons were paid he knew not, but they undoubtedly must be paid, for the parties he alluded to were professional men, who would not work for nothing. Such persons, he repeated, were bad advisers on these subjects, particularly when the Lord Chancellor had such authorities to refer to as the lords-lieutenant. It was true, the noble and learned Lord was not bound to take their recommendations or to act on their statements, but he did think it would be far safer to take the opinion and advice of those who must act with some degree of responsibility rather than listen to private persons who were more or less actuated by party and political objects, or who had stood contested elections. The noble Lord concluded by moving pursuant to his notice in the terms above stated.

The *Lord Chancellor* said, that the noble Baron had addressed their Lordships after he had spoken on the former discussion on this subject when it was brought forward by a noble Earl (Earl Harewood), the lord-lieutenant of the West Riding of Yorkshire, and who, after the motion had been debated at length, withdrew it. The noble Baron had then an opportunity of stating all that he had that night addressed to the House. The motion that was brought forward on the former occasion had, after ample discussion, been objected to, and the objection was considered valid on its being suggested, that the production of the letters that passed between the Lord Chancellor and the lord-lieutenant of a county, respecting the appointment of magistrates in it, were of a confidential character, and that their production might seriously affect individuals, and, therefore, that they were not such as should be produced, He, in that discussion, was under the necessity of reading some of those letters, and a noble Marquess, at the time, thought some prejudice might be done to individuals by his doing so; but he had taken care to exclude the names of individuals, and thus had avoided any public inconvenience. The noble Earl withdrew his motion, and the noble Baron knew what had taken place, and seemed to concur in the course that was taken with respect to the motion. The noble Baron made no observation at the time; but the next day he came down to the House, and gave notice of the present motion, as if the noble Baron thought he could say more, or say it better, than he had done on the previous occasion, and this was a motion for the very same purpose, as far as the communications to the Lord Chancellor were involved, as was made by the noble Earl. The noble Earl's motion referred to the appointment of magistrates in the neighbourhood of the place which was the subject-matter of the noble Baron's motion, namely, the wapentake of Skyrack. He repeated, that the noble

Baron came down the next day after the noble Earl's motion for the purpose of giving notice of his intention to move for papers similar to those demanded by the noble Earl, and after the noble Earl had thought proper to withdraw his motion. The noble Baron had also moved for any communications that had passed between the Lord Chancellor and any person or persons respecting the number of names in the commission of the peace. This, he thought, was a proposition or demand which could not be maintained for a single moment, and indeed the noble Baron admitted it, for he said, that he did not wish to have any private letters produced, nor did he desire, that any such documents should be published. The noble Baron also stated, that he did not wish for the production of the communications that had passed between the Lord Chancellor and the lord-lieutenant of a county on the subject of appointing individuals to the commission of the peace; and, in short, he declared, that he did not require anything but the petition or memorial to the Lord Chancellor on the subject of those appointments, which memorial he afterwards admitted, that he did not know whether it had any existence or not. It, therefore, would appear, that all that the noble Baron wanted was the opportunity to make another speech on this subject. The noble Baron admitted, that he did not know whether this supposed memorial had any existence or not, but he assumed that it had, for the sake of his speech. The noble Baron repeated what he had stated on the former debate on this subject, and had fallen into the same mistake which the noble Baron then fell into, and which he took the opportunity of correcting at that time. The noble Baron had again assumed, that he had declared that when he thought that a body of magistrates of opposite political opinions had been appointed, that he would take care to appoint others of opinions similar to his own. He had before corrected this erroneous statement of the noble Baron, and he regretted that he should once more have fallen into it. What he then said was, that when the bench of magistrates was composed of men exclusively of one species of political opinion— and he took care to guard against referring to any particular bench of magistrates—but when there existed an exclusive opinion, and when the bench of magistrates consisted of men of only one political creed, the same confidence would not be reposed in them by the public, as it was desirable they should possess, and as would be reposed in them if they were so varied as to embrace men of different political sentiments. At the same time, he stated, that he did not for a moment mean to assert that magistrates of any particular political creed would interfere improperly with the administration of justice, or would decide otherwise than the justice of the case demanded. What he meant to point out was, the inconvenience that might accrue from the want of confidence of the people in a bench of magistrates so constituted. The noble Baron stated correctly that an application was made by the Lord Chancellor to the lord-lieutenant on the subject of these magistrates, and no complaint was made, nor opinion expressed against their appointment by the lord-lieutenant. He did not like to state any thing on this subject in the absence of the noble Earl, and should have been better pleased if the discussion had been renewed in the presence of that noble Earl. As it was, however, he would only refer as little as possible to the communications that had passed on this subject between himself and the noble Earl. That noble Earl stated, that he had no objection to those persons as individuals, as he believed them to be unexceptionable. The noble Baron also said, that he had no objection to those gentlemen. The whole question, then, was whether the Lord Chancellor had performed his duty improperly in recommending this exercise of the prerogative of the Crown in appointing those individuals magistrates. It was said that the Lord Chancellor of this country was always an active member of a political party, and was therefore likely to be influenced in his opinions, and have more applications, and to hold more frequent communications with the members of one political party than with those of the other. As regarded himself, he distinctly denied, that any more in that, than in any other part of his duty he had applied to any one political party, or appointed only those that entertained the same political opinions as himself to offices of this kind. It was his duty to take care that a fair share of both parties was appointed to the magistracy, and he was satisfied that the result of examination would prove, that he had exercised the duties intrusted to him with fairness and justice. But it now appeared, that the Lord Chancellor could not be fairly intrusted with the appointment of the magistracy, because he was connected with a particular political party; but if the Lord Chancellor could not be trusted with this duty, could the lord-lieutenant of a county be trusted better than this great officer of the Crown? Was the lord-lieutenant less tainted with political bias, and more likely to form a calm and just conclusion, than the Lord Chancellor? It was now, however, said, do not leave this duty to an officer who was responsible for the proper selection of persons to the magistracy, but intrust it to one who may, without control and without discovery, suffer his political feelings to bias him in his choice. He did not go into details on the former night's discussion, and he thought that it was better for him to abstain from doing so; and he knew, that this was the opinion of many noble Lords near him, and he certainly should not do so on the present occasion, unless he was driven to it. Neither the noble Earl on the former occasion, nor the noble Baron that night, had said anything against the propriety of conduct nor the integrity of the persons who had been thus appointed; but it had been stated to him by those whom he considered competent authorities, that they were most proper persons to be selected for the commission of the peace. It was then admitted, that they were proper persons, and against whom the noble Earl (the lord-lieutenant of the county) said that he could say nothing; and the noble Baron said, that he had no objection to them as individuals: therefore he contended that he had properly exercised his discretion as Lord Chancellor in introducing certain persons to the commission of the peace against whom no complaint could be made. The discussion that had taken place on this subject had led him into further investigation, and he was satisfied, not only from what had passed in that House, butfrom further information which he had received on the subject, that there was not one of the persons whose appointments had been called in question by the noble Baron, who was not a most proper person for the commission of the peace. The noble Baron said, that he preferred the former list of magistrates. Why did the noble Baron prefer it? Not because he had any individual object, for he acquitted the noble Baron of anything of the kind. Supposing, however, that the noble Baron had a certain interest in this district, and had been induced from some reason or other not to be favourable to the new list. He was sure that the noble Baron liked the old list better than the new list, but it did not, therefore, follow, that the new list was injurious to the public interest. He confessed, that for his own part he did not dislike the discussion that had taken place on this subject, because it served to dissipate the error which had got possession of certain minds, that the lord-lieutenant of a county and not the Lord Chancellor was the proper person to select and appoint the magistracy; he was extremely glad to have an opportunity of dissipating this error. It showed how soon a habit grew into a right. They had frequently discussed this topic during the last and the present Session of Parliament, and over and over again he had stated what he considered to be the relative duties and situations of Lord Chancellor and the lord-lieutenant of a county on the appointment of the magistracy. The noble Baron, however, was not one of those who laboured under the delusion, for he distinctly stated, that it was the duty of the Lord Chancellor to appoint the magistracy; but, entertaining this opinion, he was at a loss to imagine how the noble Baron arrived at the conclusion which he had stated at the end of his speech. The law vested the power of appointing magistrates in the Lord Chancellor and not in the lord-lieutenant of a county; but at the same time, as the former had not the same opportunities of possessing local information as the latter, it was right and proper that the Lord Chancellor should consult the lord-lieutenant as to the qualifications of the persons to be appointed magistrates. It was not easy for him to tell when the practice grew up of first communicating with the lord-lieutenant previous to appointing magistrates, but from what had fallen from Lord Eldon it would appear that that noble and learned Lord supposed that he had introduced the custom. He found that Lord Eldon, in 1831, in a debate on a subject very similar to the present, namely the Lord Chancellor of that time appointing a certain individual to the commission of the peace without consulting the lord-lieutenant of the county, said,

"The usual sort of intercourse which was maintained between the Lord Chancellor and lord-lieutenants of counties divested the exercise of the duty which devolved upon them of that degree of responsibility which would otherwise attach to it if exercised solely on the responsibility of one party or the other. The noble and learned Lord on the woolsack, in justifying his conduct in the present case, had spoken of it as a departure from the general rule; and he therefore hoped that in future the usual rule as to the intercourse between the Great seal and the lord-lieutenants of counties would be adhered to. For his own part he (the Lord Chancellor) had hoped that the custom would not be departed from. With regard to filling up commissions which had been omitted, and no reasons assigned for such omission, he was aware that such things had been done by Lord Chancellors. The noble and learned Lord mentioned an instance which had occurred while he held the Great Seal, where the bishop of Durham, who was accustomed to send up a new commission every year, had on one occasion sent it up, omitting two names, and without assigning any reason for the omission. On making an inquiry into the matter he (Lord Eldon) found, that there was no reason for excluding those names from the commission, and he had them accordingly placed there. This subjected him, as the Chancellor of the day, to what all lord chancellors must be subjected to; and he must entreat the noble and learned Lord not to take the alarm if he were so handled also—if he were almost pulled to pieces for what he might do, or not do, as Lord Chancellor."

That attack was very similar to the present, and what was true in 1831 was equally true in 1838. The noble and learned Lord went on to say,

"The second case which had occurred during his chancellorship was that of a Welsh magistrate, who had been removed from the commission on a charge of having appropriated to himself certain fines which he had imposed upon persons who had been convicted of offences before him. The persons who had made this charge made it upon affidavits, and upon those affidavits those persons were convicted of perjury. He had immediately restored this magistrate to the commission. The third case—he would not mention names—was one in which the individual removed had saved him (Lord Eldon) the trouble of striking his name out, by resigning. In conclusion he would only observe, that he thought there ought to be a free and liberal communication between the lord-lieutenants and the Lord Chancellor. He had protected himself from that maxim, that the Lord Chancellor was responsible for all such appointments, by calling to his assistance those who must know better than he could know who was fit and who was not fit to be in the commission."*

He had, therefore, the authority of Lord Eldon, who, however, had assumed that he had introduced the custom of consulting the lord-lieutenant as to the appointment of the magistracy; but this was a mistake, for that noble Earl did not introduce it, although he took credit to himself for having done so. He could not tell precisely when this grew into a custom, but he had endeavoured if possible to ascertain when it commenced. He gave directions, therefore, that it should be traced back; but as there was no office connected with the Lord Chancellor for preserving these papers, he had not ascertained the point exactly; he had, however, succeeded in procuring evidence to shew that in former times it was frequent for the Lord Chancellor to communicate with the lord-lieutenant on this subject. The truth was, that the appointment of the magistracy was entirely the prerogative of the Crown, and by the Crown placed in the hands of the Lord Chancellor as keeper of the seals. Nor was the time remote when the Crown interfered by the Secretary of State to place individuals in the commission. For instance, he found, that in 1710 there was a letter from the Secretary of State (Lord Dartmouth) to the Lord Chancellor, recommending certain persons should be appointed magistrates in the county of Derby. Again, in 1790 a communication was made, signed Henry Dundas, in which it was stated, that his Majesty had been graciously pleased to signify his wish that certain gentlemen then named should be appointed in the list of magistrates for the county of Middlesex. This was done so accordingly. [Lord *Brougham* these were police magistrates.] No, they were county magistrates. Again, he held similar communications in his hand dated 1798, 1780, and 1713. In some of these cases the course which was followed was very similar to that generally followed at present, and in other cases the communication merely included a list of the names of those persons to be inserted in the commission of the peace, and it appeared that afterwards a letter was sent to the lord-lieutenant informing him what had been done. Now, he thought, that the system generally followed at present was much better than that which was formerly acted upon, for valuable information must be obtained by communicating with the lord-lieutenant. But this was a very different system from being obliged to communicate and to abide by the decision of the lord-lieutenant as to who were proper persons to be magistrates. The noble Baron did not lay this system down in theory, but if the object of his motion was, not to follow it up in practice, he did not know what it was; for according to the opinion of the noble Baron, a Lord Chancellor must not only not ask a lord-lieutenant whether such and such persons should be appointed magistrates, but that he must wait until the lord-lieutenant sought him to question him on the subject. The noble Baron most distinctly stated, that he objected to the Lord Chancellor putting questions to the lord-lieutenant respecting the names of these persons; but, with the exception of making this proceeding the subject of his motion, was there any thing respecting the appointment of these magistrates of which he did or of which he had the least reason to complain? If this part of the prerogative of the Crown were to be exercised on the responsibility of the Lord Chancellor, as other branches of the prerogative, he knew not how it could be done in a less exceptionable manner than by asking the lord-lieutenant of a county if he was aware of the existence of any objections to the appointment of a person to the bench. If a lord-lieutenant should state any objections, of course the Lord Chancellor would pay the highest respect and attention to the information that would be thus communicated, and while he would be bound to take into his most serious consideration all information on the subject, it would be his duty to exercise his own judgment and discretion in the appointment that he made. He had never himself departed from this principle, and he had never found that any other lord-lieutenant complained of the rule being complied with when the appointments were made. If the noble Lord complained of this, he should be glad to know how he could exercise the duty belonging to him more properly than in manifesting the greatest caution in filling up the lists of magistrates. He had never heard it suggested how he could more beneficially and carefully perform his duty of filling up the list of magistrates than by pursuing this course. He had not the least doubt that if the practice of appointing magistrates rested with the lord-lieutenants, that they would almost in all cases examine the persons about them, and lend their ear to those near them according to the circumstances of the case, and by this means party feeling might often interfere in those appointments. By adopting this course, then, they would be handing over the power to an irresponsible public officer, for the lord-lieutenant was not responsible for the appointment of magistrates. He was now consulted as to the appointment, but he was not responsible for it, as it was the act of the Lord Chancellor, and that officer was alone responsible for the exercise of that duty. It was absurd to say that the Lord Chancellor should not exercise this power, for pursuing the course that had been suggested, the power would be left in the hands of the lord-lieutenant, who would not be responsible for the selection of proper persons. Every lord-lieutenant that he had conversed with on the subject, admitted, that as a general rule, the plan that had been laid down by the Lord Chancellor was good; but none would admit, that it was applicable in any particular case, and no one had suggested a mode in which the right could be maintained, unless in the mode in which he had stated. He was at a loss to see what was the object of the motion. The noble Baron said, that he did not wish to see the letters that had passed between the Lord Chancellor and his friends on this subject, nor did he desire to see the communications that had passed between the lord-lieutenant and himself; but the noble Baron stated, that he was anxious to see the memorial or petition, if such a document existed; and if such a paper existed the noble Baron could see it, as the return could be ordered by the House. He repeated, that he was unwilling to enter into a detail on this subject, but if other circumstances were stated, he should probably be compelled to enter into a minute statement as to the reasons which induced him in this particular instance to appoint other persons in addition to those already in the commission of the peace. He should deeply regret being called upon to do so; but if he were compelled, he had no alternative but entering upon a lengthened detail. He should not, however, otherwise do so, and should, therefore, at present abstain from going into the subject, as he thought it would lead to nothing but mischief. A subject similar to the present had occupied the attention of the House in 1836; he meant the appointment of borough magistrates. He, both then and now, felt that no person should be excluded in consequence of their political opinions, but that all parties should be admitted, and this principle was acted upon by him, and he believed successfully. He was sure that neither the noble Baron nor any other noble Lord could prove otherwise. He was sure that the noble Baron could not prove that any principle of exclusion had been acted upon in any case in consequence of a person entertaining peculiar political opinions. He had all along contended that there should be no exclusion on any such grounds; and if there was any exclusion, it was a vicious state of things, and required at once a remedy. If from any cause, such as violent party feeling, such a state of things prevailed, the commission of the peace in the district was not in a sound state, and it was the duty of the Lord Chancellor to correct it. Did the noble Baron assent to this? Did he mean to assert, that there had been no such thing as exclusion in the commission of the peace?

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* Hansard, vol. v. third series p. 11, 12.

Lord *Wharncliffe* said, that there was no exclusion in the commission of the peace in the county, but there had been in the borough magistracy.

The *Lord Chancellor* denied, that there had been anything like exclusion in the appointment of the borough magistracy. At the same time the noble Baron said, that there had been no exclusion as regarded the magistracy of the West Riding. He was very unwilling to be pressed with a discussion on this subject, in the absence of the noble Earl. When, however, the commission of the peace in a county was to a certain degree exclusive, it, nine times out of ten, was not the fault of the lord-lieutenant, who was too high-minded to lend himself to such a purpose. But it followed almost as a matter of course, that the lord-lieutenant had consulted those of the same political feeling as himself, and as they were probably lower in the scale of intelligence, they suffered the warmth of their feelings to carry them away, and to exaggerate greatly the alleged defects of those who happened to be their political opponents. By this means, almost exclusive commissions of the peace had grown up in some places. He had thus attempted to go through the observations of the noble Baron, and he hoped that he had furnished a satisfactory answer to them. Before he sat down he was only anxious to set himself right as to certain cases which were alluded to on the former occasion by the noble Duke (the Duke of Wellington); and he was the more anxious to do so, to prevent that impression arising which would otherwise be the case, in consequence of the great weight that was attached to all that fell from the noble Duke. The noble Duke had alluded to three distinct cases. He said, "he would suppose, that a gentleman was recommended to the noble and learned Lord who was what was called in the ancient acts of Parliament a '*barrator*'—a person who was bound over to keep the peace. But where, he would ask, would the noble and learned Lord in his canvass find a recommendation of this kind? Would he receive it from the lord-lieutenant of the county? Would it be from any gentleman of rank or station in the county who would have a right to correct the noble and learned Lord on the subject? No such thing. It would be from some political partisan. He did not mean that the party approached the Lord Chancellor himself; but he approached somebody else, that had the ear of the Lord Chancellor. It was from such a source that such a recommendation came." He had taken the liberty of asking the noble Duke whether he referred to any transaction in which he knew the party, and the noble Duke did not choose to give him an answer. Under these circumstances, nothing more remained for him to do, than to profess his ignorance of what was alluded to. He should probably have remained in ignorance of the matter had not some person, in one of those sources of public intelligence which sedulously laid such statements before the world, furnished him with a clue to discover who was the individual alluded to in the debate which had taken place in that House. Did not the noble Duke allude to what had occurred in February, 1835, with reference to the individual in question?

The Duke of *Wellington* said, that he did not; and it was evident, that the noble and learned Lord was not referring to the same person that he had alluded to.

The *Lord Chancellor* observed, that if that was the case, he was sorry to find that there were two cases of barrators. He could not help regarding this as an unfortunate occurrence, for in all his communications with the noble Duke, he had been treated by the noble Duke with the utmost possible courtesy, and he regretted that this occasion had arisen. He certainly thought, that he had got the right man, but it appeared, that the case that he had found was another case of a barrator, he could, therefore, only declare, that he was quite ignorant who the individual was, that had been referred to by the noble Duke. There were two other cases referred to by the noble Duke; the first was described as follows:—"A gentleman goes and stands a contest at a general election; after having stood this contest he is appointed a captain of one of her Majesty's ships; he goes to sea, and then the Lord Chancellor writes, that it is necessary, that this gentleman should be put in the commission of the peace. But the Act of Parliament required, that the magistrate should be resident." Now, the facts of this case, when mentioned, would he was sure, take the sting out of the observations. It was true, that he had been applied to by the father of the gentleman in question to place his son's name on the commission of the peace. This was in the summer of last year, but as he knew, that a new commission would be required, he did not take immediate steps in the matter. In the autumn he had recommended the name of this gentleman to the notice of the noble Duke. This was in the month of October; and it appeared that the gallant officer had been appointed to a ship, since the application of his father. He did not think, that he was liable to any very heavy censure for the part that he had taken in this matter, as he believed, that all parties would admit the gentleman to be unexceptionable in point of station and character. But, after all, this case showed the propriety of communication taking place on this subject, between the Lord Chancellor and the lord-lieutenant of a county. There was another case which the noble Duke had alluded to, that of a gentleman who had been an attorney, and who, having for several years carried on the business with a firm, at length became a sleeping partner in the business, and was then subsequently appointed to the office of a magistrate. Hearing this declaration, he was desirous to know if he had committed the offence which was alleged, and he applied to the partners of the house, which was a most respectable firm in the city, and he learned, that the gentleman referred to, had been a partner in the house, but for twenty years he had had no connection with it. As this information had been derived from a quarter which could not be doubted, he must presume, that the noble Duke had been misinformed as to the communication which he had made to the House. He had had no object in making this statement but that of relieving himself from the pressure of what had fallen from the noble Duke, and which always carried great weight with it. He must feel in the same manner and in the same degree as to all the counties, and if he was satisfied of the course of duty which he ought to perform, he must and would perform it in the way which it suggested itself to him was the right one. He was glad always to avail himself of the advice and assistance of lords-lieutenant in such cases, but if he found, that they would not assist him, he must obtain the best intelligence he could upon the subjects into which it became necessary for him to inquire, and must act accordingly. This had been the course which he had adopted hitherto, and which he should continue to adopt, until he was satisfied, that he was in error. When he was so satisfied, he should be content and ready to alter the plan he had pursued, but at present, he conceived, that that plan was the best calculated to secure the interests of the country.

The Duke of *Wellington* wished to remind their Lordships of what had passed on this subject a few days ago, when the noble and learned Lord stated, in answer to his noble Friend, that he considered it to be his duty to canvass by way of inquiry, with respect to proper persons to be appointed to the magistracy of the county of York. On that he differing from the noble and learned Lord, said, that such a proceeding was not quite fair towards the lord-lieutenant. To canvass first, and then to go to the lord-lieutenant and ask him if certain persons already recommended were fit and proper persons to be put in the commission of the peace, was not fair towards the lord-lieutenant, because he was placed in a situation to reply whether the person proposed was proper or not, and to say he was not proper for this reason, or for that, while he would be liable to all the consequences of giving that private and confidential information. He confessed, that he, for one, could have no confidence in such a description of inquiry. He could not write in confidence to a person, knowing, that he might hereafter be called on to state the reasons for the opinion he gave. He thought, the persons canvassed and consulted in the way alluded to must be people of a low description—not the gentlemen of the county—not men of property and influence, but persons of the lowest description. He had stated, that must be the case; he had noticed three cases which had occurred to himself, in every one of which he was positive in asserting, that the noble and learned Lord could not have received the recommendations from persons of character and consideration in the county. With regard to the first case alluded to by the noble and learned Lord, he had pointed to a gentleman against whom he had nothing to say; he was a brave officer, and had served with him, and had done himself honour. But when a person had been bound over to keep the peace, he certainly did feel, that he could not recommend him to be placed in the commission of the peace. With respect to the other case to which the noble and learned Lord had alluded, he had stated to the noble and learned Lord the objections which he entertained to the appointment of that individual—namely, his being a partner in a house of business in the city. He had stated those objections twice to the noble and learned Lord, and he wished distinctly to observe, that he had objected to those gentlemen on no party or political grounds. When he was called upon to recommend a list of magistrates, he had ever recommended all who were recommended to him, and in February he had acted on that principle, and had excluded no one except the gentleman who had been stated to be guilty of barratry and the gentleman who was a sleeping partner in a house of business. There was, therefore, no exclusion in the list which he had sent up to the noble and learned Lord, except in the two cases to which he had alluded; and for the exclusion of those two persons he had stated his reasons to the noble and learned Lord. Now, what was the law on this subject? He would read a short extract to their Lordships which was very plain and very short, and showed distinctly who the persons were who ought to be appointed to the magistracy. The law said that:—

> "The justices of the peace must be good and loyal men, no maintainers of evil, and of good character in the county. They must be selected from men of the best reputation in each county, and some should be learned in the laws. They must be knights, esquires, and gentlemen of the land, resident in the county and the qualification for the office was to be an income of 100*l.* annually, clear of all deductions. No practising attorney or solicitor to be capable of being appointed."

That was the law, and even though he might have been mistaken as to the strict applicability of the law to the case of the gentleman who had been alluded to as a sleeping partner in a house of business, yet he contended, that the presumption was, that such a person was not qualified, as the law stood, to be appointed. What he contended was, that the magistrates should be selected, and that individuals recommended by all sorts of persons, ought not to be appointed. Such was the obvious meaning of the law, which clearly showed, that the most respectable and most influential men in the county were the persons to be selected as magistrates. With respect to the principle which the noble and learned Lord had laid down in regard to applying to the lords-lieutenant for information in reference to persons recommended to him, he must say, that if those persons were rejected, the odium of that rejection rested with the lords-lieutenant, and he thought it was too hard, that the lords-lieutenant should be called upon to state why they considered certain persons unqualified for the office of the magistracy. The power of the noble and learned Lord to appoint the magistracy was not questioned, but the noble and learned Lord thought proper to go among persons whom he conceived to be improper in order to obtain information, and then applied to the lord-lieutenant to know why certain persons had not been recommended. That was a course which he considered highly objectionable; and nothing, in his opinion, could be more calculated to injure the character of the magistracy than such a proceeding. The noble and learned Lord had said, that there had been no objection to any of the names placed upon the borough list which had been alluded to; but since the previous night's debate on this subject, he (the Duke of Wellington) had received some information in regard to that list, which he would put into the hand of the noble and learned Lord; and he begged the noble and learned Lord to look into that communication, and then judge whether he was not likely to have been deceived by the mode which he had adopted to obtain his information. He would place that communication in the hands of the noble and learned Lord, with the hope that it would open his eyes to the bad effects likely to arise from seeking to obtain information from the description of persons to whom he had alluded, and who, he contended, were unqualified to give a sound and impartial opinion on the subject. He would insist that the law intended, and Parliament had expressed its decided opinion on the subject, that those officers ought not to be political, and that the magistrates ought not to be selected from party or political motives. Parliament had clearly declared its opinion on this point by a clause in the English Corporation Bill. An attempt was made to give, by that bill, a power to the corporations to recommend the magistrates to be appointed for those corporations; but, by a clause which was moved in that House, and agreed to in the other House of Parliament, it was decided that the corporations should have no such power. He was aware, that a noble Lord in the other House had contended for extending such a power to the corporations; but Parliament decided otherwise, and held, that the magistrates should not be selected from political motives, and that they ought to be kept, as far as possible, clear from party. Such was the law, and such was the declaration of Parliament; and he contended, that the principle upon which Parliament had acted, was the only principle by which they could secure the pure administration of justice. He was always unwilling to enter upon such discussions as the present, as he was aware, that they were generally painful, while they led to no results. The noble and learned Lord had said, that he would persevere in the same course which he had hitherto pursued. Be it so; and all that he would say was, that as *custos rotulorum*, he could not prevent himself from feeling a strong want of confidence in such a mode of performing the duties of the noble Lord's high office, as the noble and learned Lord had described. His object was, to have men of respectability appointed to the magistracy, and their Lordships might assure themselves, that the public would ultimately feel, that those who wished to keep the magistrates clear of party and uninfluenced by political motives, and to select the justices of the peace from the persons of the greatest influence in the country, were the best friends of their country.

Lord *Brougham* wished to say a few words in reference to the gentleman who had been charged with barratry. That gentleman had done nothing to subject him to such a charge. He had been guilty of some violence, because he had felt his honour to have been touched; and the noble Duke had admitted, that that violence was the only thing which prevented him from recommending him to be appointed to the magistracy. The noble Duke had stated, that he had no other objection to the gentleman alluded to, and had admitted, that in every other respect his character was irreproachable. He wished that that statement should be made known distinctly, as the gentleman alluded to was a most estimable and highly respectable individual. There was no barratry, for barratry meant a stirring up of suits; and he did not know how such a term could be applied to the conduct of the gentleman who had been alluded to. With respect to what the noble Duke had said in the conclusion of his speech, he (Lord Brougham) was sure that the people did feel the necessity of keeping the administration of justice pure, and those who exerted themselves to keep the magistrates clear from party and political feelings, were entitled to the thanks of the country. He by no means thought, however, that the best mode to effect that desirable object, was by adopting a system of exclusion. If, on the other hand, they proceeded upon the principle of creating six Whig justices, because six Tory justices already existed, or six Tory justices because six Whigs had been previously created magistrates, then they would have the bench divided, not on the merits of any case which might come before them, but on political grounds; and such a course, therefore, was extremely liable to objection. He was quite sure, that the best results would flow from the Lord Chancellor keeping his ears open, if he did not place himself in improper hands; and to whom, he would ask, could the Lord Chancellor apply with more confidence for information than to the lords-lieutenant? He agreed with those who said, that the lords-lieutenant would be placed in a different position, if the Lord Chancellor applied to them for information in respect to individuals recommended for appointments in the magistracy, provided those persons were rejected, and the grounds of that rejection stated. He would mention the course which, in such cases, he himself had invariably followed. He had received, while he filled the office of Lord Chancellor, recommendations from county and borough Members, and from other persons; and he had made it a rule to apply for information to the lords-lieutenant in regard to all those recommendations, and if the lords-lieutenant satisfied him that the persons who had been so recommended ought not to be appointed, he had felt that it was his bounden duty to take the responsibility of the rejection on himself. He held, that he should have been guilty of a very great breach of confidence, had he stated, that the rejection was the consequence of the representations of the lords-lieutenant. The appointments were not in the hands of the lords-lieutenant, but in the hands of the Chancellor, and how the lords-lieutenant came to exercise such a power as they did at present, was difficult to say. He did not see how the system could be much mended, unless a greater number of stipendiary magistrates was appointed; and in all cases he thought that the chairman ought to be a paid officer. That, however, was a subject foreign to the present debate, and on which he should not, therefore, enter at that time.

The Earl of *Warwick* complained of the applications which had been made to the Lord Chancellor for the appointment of magistrates in the county of which he was lord-lieutenant; and with respect to the municipal boroughs, the general opinion in the county was, that the appointment of magistrates in those places were controlled by the influence of a gentleman who was well acquainted with Warwickshire—he meant Mr. Joseph Parkes. All that had been said regarding the magistrates might with equal propriety be applied to the appointment of sheriffs; and the whole patronage in the county seemed to be dispensed, with an entire regard to party feeling.

Lord *Wharncliffe* said, he understood that the Lord Chancellor objected to give an answer to the question he put respecting the memorial of which he desired a copy.

The *Lord Chancellor* was not aware of the existence of any memorial of the kind.

Lord *Wharncliffe* said, that under these circumstances he must, of course, withdraw his motion. He would, however, fairly state his opinion, that he believed the proceeding to which he had called their Lordships' attention, to be a political move. The Lord Chancellor had received private applications from persons who, he believed, had made those applications from political motives; and all that had fallen from the noble and learned Lord, had only served to confirm his opinion on this point. The noble and learned Lord had said, that he (Lord Wharncliffe) had interest in the county, and of course liked the old bench better than the new; and it was to be presumed, he supposed, that his preference for the old bench was founded on party feelings. Was it, then, intended by new appointments to destroy his political interest? He repeated, that the noble and learned Lord, by attending to private applications with regard to the appointment of magistrates, had been made the instrument of a political party.

Motion, by leave, withdrawn.

MUNICIPAL CORPORATIONS (IRELAND.)] Viscount *Melbourne*, in moving that the report of the Committee on Municipal Corporations (Ireland) Bill be received, said, that their Lordships had, in the Committee, introduced into the bill numerous and complicated amendments, some of which were of a very technical nature, and could only be judged of with reference to the local circumstances of that part of the kingdom to which they were to be applied. As these amendments were only proposed last Thursday, it was impossible for him, or for his noble and learned Friend on the woolsack, to give any decided opinion with respect to them on the present occasion. At the same time he begged leave to say, that though he was very far from concurring in the propriety of some of them, yet if they were adopted and persevered in by their Lordships, he should not regard them as forming a reason why he should not proceed with the bill; and he would not, therefore, abandon the measure on account of their adoption. He, however, repeated what he had said on a former occasion, that the amendment introduced by their Lordships, establishing as a qualification for the burgesses under the bill, the occupation of a tenement rated at 10*l.*, including repairs and insurance, appeared to him very objectionable. They all knew that the actual value of a tenement was far beyond the value at which it was rated. He held in his hand a statement of the actual value of many houses in different towns in Ireland—in Belfast, in Dublin, in Limerick, and others, by which it appeared that the actual value of tenements was far, very far, beyond the value at which they were rated. Such was the case in England, and such, he apprehended, was the case everywhere; and he believed, that it was perfectly certain, that the value of a tenement rated at 10*l.* would probably vary from 12*l.* to 15*l.* By adopting the amendment which had been proposed, their Lordships would consequently be establishing in Ireland a qualification which was evidently a great deal too high, and which, he feared, would have the effect of constituting governing bodies for the corporate towns in Ireland, not much less exclusive than those at present in existence. If that were the case, their Lordships must perceive, that their own expectations with regard to the working of the bill would not be answered, and that they would be passing a measure which could neither be satisfactory to the country, nor answer the ends for which it was intended—viz., the establishment of a free and regular government for municipal towns in Ireland, based on the principle of popular election, including and bringing into its sphere and operation all that was generally respectable, and entitled to have a share in the government of those towns. He was aware that the great body of their Lordships had adopted the amendment, under the impression, that a high qualification was very advantageous in aiding those principles which were generally considered as Conservative. He did not know on what ground it was, their Lordships formed such an opinion. They had already tried an experiment of that kind in Ireland. They had raised the freehold qualification in counties from 40*s.* to 10*l.*, and making all allowance for the means by which the franchise was procured, for the perjury which was said to exist, and the false valuations said to be palmed on the revising barristers, still it was impossible, he apprehended, to deny that that change was a considerable raising of the county qualification in Ireland. Now, he begged their Lordships to consider whether the effect of raising the franchise, had been such as they had expected; and whether, in point of fact, it had not strengthened those opinions and principles which they never wished to strengthen? Had they then any reason to expect a dissimilar effect from a similar provision with regard to municipal voters? He begged to say, that he entirely objected to the amendment, which he considered would be a great source of strife, and blemish in the bill, calculated to countervail its advantages, and to prevent its proving ultimately satisfactory. But, at the same time, as their Lordships' opinion in favour of the higher qualification had been so distinctly expressed, and supported by such a large majority in Committee, it was not his intention again to stir the question, to propose any amendments to the bill on the present occasion, or to take the sense of their Lordships again on the subject. But he gave notice, that he should, on the third reading, move the addition of a certain number of towns to schedule A; and also the addition of another schedule, containing several other towns, to which he thought corporations and municipal government ought to be given by the bill, with a lower rate of qualification. He now moved, that the Report be received.

Lord *Brougham* wished to say a few words, having been accidentally prevented from taking a part in the former discussion on this bill. He concurred with the noble Viscount in what had just fallen from him, and he confessed, that he was greatly disappointed in the two amendments of his noble and learned Friend. His noble and learned Friend, instead of forcing corporations on some towns, proposed to give those towns means of obtaining corporations on application to the Crown, in the meantime vesting the corporate power in certain commissioners. He thought with his noble and learned Friend that the towns in schedule B were too numerous, and that by granting corporations to all they would be going too low. For the same reason in the schedule of the Scotch Burghs Reform Bill in 1833, he had yielded to the opinions of a noble Earl for whom he entertained great respect: he had given up some of the towns in the schedule, and instead of having gone too far, he thought that if he had given up eight or ten towns more, in which it had been found impossible to work the measure well, he should have improved it. For the same reason, then, that he had in 1833 consented to alter the Scotch bill as it came from the Commons, he would agree to an alteration of schedule B in the present bill; but if they struck out all the towns in that schedule they would be going too far. The natural line was to keep in the schedule all the parliamentary boroughs. They were of some consequence and importance. He would leave the residue to petition; and even if there were any parliamentary boroughs of a small class they might be omitted; but all cities and towns of consequence, or of any extent, ought to be included in the bill. So much for the first amendment of his noble and learned Friend. To the second, which was of far more importance, he had a more serious objection He would not go over the ground taken by the noble Viscount; for, undoubtedly, though they might talk of a 10*l.* franchise, yet if it were regulated by the rate it would amount to 14*l.* in real value. It was immaterial for the rate what was the value; and whilst noble Lords said, that they would give a 10*l.* franchise, they adopted a test which would exclude all 10*l.* houses, and would really give a franchise of 12*l.* or 14*l.* or 15*l.* Another reason why he (Lord Brougham) differed still more from his noble and learned Friend was one to which he would call his noble Friend's serious attention. The noble Lord wished to include in the 10*l.* the landlord's repairs and insurance; and therefore he did not say in words, but held out that it was not a 10*l.* house, but one of lower value. Perhaps an 8*l.* house would be accepted.

Lord *Lyndhurst* said: By no means, quite the contrary; he meant only a house which was let for 10*l.* *bonâ fide*, the tenant paying those taxes which usually fell upon the tenant, and were usually paid by him.

Lord *Brougham* continued: What he wanted, then, to caution noble Lords against was, the supposition that what was applicable to England was applicable in the same degree to Ireland. The test proposed might, for aught he knew, be excellent in England, but circumstances were different in Ireland. How little effect would repairs and insurance have in raising the value in Ireland? Whoever thought that a 10*l.* tenement would cost much to keep it in repair? Whoever heard of a landlord in Ireland repairing such a tenement? In the next place, who would lay out much upon its insurance? But if any one did, it was not likely that it would cost more than 2*s.* 6*d.* per cent., and supposing that a 10*l.* house was worth 200*l.* the insurance would only be 5*s.* a year. The fact was, however, that the rate was only 1*s.* 6*d.* per cent., another instance of a most impolitic tax in England, and the consequence would be, that they would find the qualification to be a very high one, and that it would not be a rated value of 8*l.*, but a real value of more than 13*l.* or 14*l.* But what he wanted to know, and what he could not understand, was, why there was any qualification? There was none in England, where it was only required that the householder should be rated for a certain length of time. In Scotland there was a 10*l.* franchise, he admitted, but why was it necessary there? Because there was no rate as a test, and it was considered desirable to establish the same parliamentary and municipal qualification to prevent a double registry; but that was not the case in England; no qualification was necessary here, from the large cities down to the smallest towns: being a householder for a certain length of time was sufficient, and every holder of a house had a right to vote. They had tried the experiment; they had found the result; there had been no riot, no confusion; there had been no annoyance to one class more than another; there had been no partiality shown for one class over another; for although under the excitement of the first election, as under the Reform Bill, one class had been preferred, yet the distinction had become less and less; but since, in Liverpool and other towns, a large proportion of the councillors included in the new elections, he believed nearly one-half, were of opposite politics, he thought that this good working of the system ought to be well considered and to be freely taken into account in framing the Irish measure. These opinions led him to think, that they ought to have adhered to the bill as it was sent from the Commons. On the merits of the measure itself he thought that it was of importance, but in one point of view it was most important, as being a bill which was intended as a measure of peace, and conciliation, and kindness, towards Ireland. He did not say, that if they passed the bill with his noble Friend's amendments, it would not be received as a boon, yet to a certain extent its reception would be less gracious than the manner, perhaps, in which it was intended to be given, and, certainly, than it ought to be passed; to a certain extent it would not be received with favour, and therefore it might fail in a great measure of producing tranquillity and contentment in Ireland. As, however, the noble Viscount did not propose to take the sense of the House against the amendments, he would not do so himself.

Lord *Hatherton* entertained so strong an opinion upon this bill, that he hoped to be allowed briefly to state his objections to the arrangements by which it was sought to effect the object which noble Lords had in view. In the first place, he thought, that if the franchise, as it stood in the bill sent up from the Commons, was not thought fit to be retained, yet that the noble and learned Lord had not fixed upon a proper remedy. He thought that the 10*l.* franchise might have been retained, as a temporary basis, and that when a continuous rating of three years should have taken place that this should be substituted. This was the case under the English bill, and this would have been equal justice, and it would produce no disadvantage. He thought, also, that the noble and learned Lord had taken another bad mode of effecting his object. He could not see the reason of introducing the columns of insurance and landlords' repairs to make up the value of 10*l.* Why was this cumbrous method adopted of making the valuers state each of these doubtful particulars in the accounts? They ought, in his opinion, to have concurred in some general deduction from the rated value of 10*l.*, and they should then declare that the balance, whether 7*l.* 10*s.* 8*l.* or 9*l.* should be the amount of this qualification; this would have been a far simpler and a better plan. Another objection which he had, was, that they would be establishing to a certainty a higher qualification in Ireland than in England; this they would do for the reasons stated by the noble Viscount (Melbourne) and the noble and learned Lord (Brougham), but also because there was at least one-third difference between the value of houses in the two countries. He had lately had an opportunity of consulting competent valuers, and he found that even in the cities of Dublin, Cork, and Waterford, where rent was higher than in other parts, there was certainly a difference of one-third between the rents of houses there and similar houses in England; and was it not then unjust to give a qualification of a higher value to the poorer country? He believed also, that it would be found, that in England the household voters under the municipal franchise instead of being fewer in number than those under the Parliamentary franchise were much more numerous. A return of the number had been made to the other House, by which, though imperfect, he found that six or seven cases for comparison might be selected, where there were no freemen, and where the boundaries of the towns for each franchise were alike. In the two towns of Leeds and Stockport, the Parliamentary and the Municipal boundaries were coterminous. In Leeds, the number of 10*l.* Parliamentary voters was 5,894, whilst those under the municipal franchise amounted to 17,530; and in Stockport, where the Parliamentary electors numbered 1,278, the municipal voters amounted to 3,320. In Liverpool there were freemen, so that there was no means of comparing the numbers by the return; but in Bridport, he believed that the numbers were nearly the same in both lists. At any rate he was safe in supposing, that the number of the municipal constituencies in England was one hundred or two hundred per cent. greater than the number of 10*l.* Parliamentary electors. His noble and learned Friend (Lord Lyndhurst), who had exhibited his usual ability in moving his amendments, had slurred over this part of the case in a few words, by saying that he meant to establish the same franchise in Ireland as existed in Scotland; but why was this the case; because there were no poor-rates there. It might be said, there were no poor-rates in Ireland; but they would soon be in existence there, and the natural amendment would have been to have made a temporary provision for the qualification, and then, after the poor-rates had existed for a few years, to have made continuous rating the basis. Was it not unjust, that the Municipal franchise should be higher, or even the same as the Parliamentary? Was there no difference between the necessity in each case? What was required under the Parliamentary franchise was, that the voter should be able to judge of public measures, and of the fitness of public men in national affairs; but all that was required under the Municipal franchise, was, that the voter should be able to tell whether the town was well and rightly governed, whether the local affairs were properly conducted, whether the charities were properly administered; and he said, that the most unlettered and unlearned individual in the town was as capable of forming a right opinion as to who was best to trust and to vote for in his own town for town affairs as the clergyman, the banker, the attorney, or the best educated man in the borough. He believed, that there was some fear of Catholics promoting Catholic ascendancy by pursuing a just cause, but he thought that it was niggardly and improper to legislate on such grounds. He considered it both foolish and shameful to give a higher qualification to Ireland than was required in England. For these reasons he objected to the noble and learned Lord's amendments, although he would not object to the settlement of these too long unsettled questions upon the basis now proposed, the ground of his acquiescence being, that it would not be possible for many years to retain the test which was now proposed, for so surely as the system of rating should be a few years in operation, would the Irish have strong grounds for re-opening the question. They would appeal to their Lordships for justice, and he thought that their appeal to the justice of that House, and upon such grounds, must be attended with success.

Report received.

HOUSE OF COMMONS,

Tuesday, July 17, 1838.

MINUTES.] Bill. Read a third time:—Port of London Coal Trade.

Petitions presented. By Mr. BRODIE, from Salisbury, against the County-rate Bill.—By Mr. PIGOTT, from Woodstock, against the Beer Act.—By Sir C. STYLE, from Stockton-on-Tees, and by Mr. A. SMITH, from Norwich, against Encouragement of Idolatrous Worship in India.—By Mr. F. MAULE, from Elgin, in favour of the Scots Burghs Bill.—By Captain ALSAGER, against the Grant to Maynooth.—By Mr. E. HAYES, from Donegal, for the restoration of the Suppressed Bishoprics; and against the National system of Education in Ireland.—By Colonel ANSON, from a place in Staffordshire, for an improved system of General Education.—By Mr. LANGDALE, from a gentleman named Walker, against the Abolition of Imprisonment for Debt Bill.—By Mr. MAHER, from New Ross, and by Lord CLEMENTS, from Roscommon, complaining of Grievances in the Spirit Trade.

MILITIA ESTIMATES.] Lord *John Russell* moved the appointment of the Committee on Militia Estimates.

Mr. *Hume* objected. He did not see that any benefit could result from its labours, and he did not believe, that in time of war the militia staff would be anything but useless.

Lord *John Russell* had consulted the Duke of Wellington upon this point, and he found that the opinion of the noble Duke differed very much from that of the hon. Member for Kilkenny.

Mr. *Divett* said, that it was impossible if a war broke out, that a militia staff could be of any use whatever.

Lord *John Russell* intended to introduce a measure by which the militia force would be rendered more effective.

Colonel *Salwey* said, that the militia was a most useful and constitutional force, and he regretted, that the noble Lord had taken the advice of the Duke of Wellington and reduced it. If the noble Lord would take the advice of his political friends they would be much better pleased.

Mr. *Hume* moved, that the committee have power to send for persons, papers, and records. He was desirous, as the committee was appointed, to have the subject fully investigated.

Sir *H. Hardinge* said, that if the hon. Member wanted to take the committee out of the hands of Government, he had better move for a select committee.

Mr. *Hodges* hoped, that the noble Lord (Lord John Russell) would take for the basis of any measure affecting the militia, a rule, that whenever they were assembled at any time they should be subject to martial law.

Lord *John Russell* said, he thought it better that an inquiry such as that proposed by the hon. Member for Kilkenny should be instituted at the commencement of the next Session.

The House divided on Mr. Hume's motion: Ayes 25; Noes 102: Majority 77.

List of the AYES.

Aglionby, Major
Brotherton, J.
Bryan, G.
Chalmers, P.
Collins, W.
Easthope, J.
Finch, F.
Gillon, W. D.
Grote, G.
Hastie, A.
Hector, C. J.
Kinnaird, hon. A.
Lushington, C.
Martin, J.
Muskett, G. A.
Pattison, J.
Pechell, Capt.
Salwey, Colonel
Sheil, R. L.
Stansfield, W. R.

Stewart, J.
Thornely, T.
Vigors, N. A.
Wallace, R.
Yates, J. A.

TELLERS.

Divett, E.
Hume, J.

List of the NOES.

A'Court, Captain
Adam, Admiral
Alsager, Captain
Alston, R.
Anson, hon. Col.
Barnard, E. G.
Barrington, Viscount
Bernal, R.
Blackburne, I.
Blackstone, W.
Boldero, H. G.
Bowes, J.
Broadley, H.
Brodie, W. B.
Bruges, W. H. L.
Buller, Sir J. Y.
Campbell, Sir J.
Canning, Sir S.
Chute, W. L. W.
Conyngham, Lord
Corry, hon. H.
Craig, W. G.
Darby, G.
Denison, W. J.
Douglas, Sir C. E.
Dunbar, G.
Dundas, hon. T.
Egerton, W. T.
Elliot, hon. J. E.
Ferguson, R.
Filmer, Sir E.
Fleetwood, Sir P.
Freshfield, J. W.
Gladstone, W. E.
Gordon, Captain
Gore, O. W.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grey, Sir G.
Grimsditch, T.
Hale, R. B.
Hardinge, Sir H.
Hawkes, T.
Hayter, W. G.
Heathcoate, G. J.
Herries, J. C.
Hodges, T. L.
Hodgson, R.
Hogg, J. W.
Hope, hon. C.
Hoskins, K.
Houldsworth, T.
Hughes, W. B.
Hurst, R. H.
Hurt, F.
Ingham, R.
James, W.
James, Sir W. C.
Knight, H. G.
Labouchere, H.
Langton, W. G.
Lincoln, Earl of
Lowther, J. H.
Lygon, hon. General
Mackenzie, T.
Mahon, Viscount
Maule, hon. F.
Mildmay, P. St. J.
Miles, P. W. S
Parker, J.
Parker, R. T.
Patten, J. W.
Perceval, Colonel
Perceval, hon. G.
Ponsonby, hon. J.
Praed, W. M.
Praed, W. T.
Price, Sir R.
Pryme, G.
Pusey, P.
Rushbrooke, R.
Russell, Lord J.
Sanford, E. A.
Seymour, Lord
Sibthorp, Col.
Somerset, Lord G.
Stanley, E. J.
Stanley, Lord
Stuart, Lord J.
Sturt, H. C.
Sugden, Sir E.
Thomson, C. P.
Vere, Sir C. B.
Vivian, Sir R. H.
Waddington, H.
Walsh, Sir J.
White, A.
Wilmot, Sir J.
Wood, T.
Worsley, Lord
Wyndham, W.

TELLERS.

Burrell, Sir C.
Steuart, R.

GLASS DUTIES.] The *Chancellor of the Exchequer* moved the third reading of the Glass Duties Bill.

Sir *C. B. Vere* wished to put a question to the right hon. Gentleman with respect to an invention of a gentleman of the name of Rutledge, of an instrument for ascertaining the quality and quantity of spirits distilled during the process of distillation. Such an invention would be a benefit to the distillers and also to the country. A report had been made by Dr. Birkbeck, which was favourable to the invention, and, he understood, that Professors Lubbock and Brande also spoke favourably of it. He wished to know whether any step had been taken by Government to test the invention?

The *Chancellor of the Exchequer* said, it was true that, for some time, the attention of the Government had been called to the invention of Mr. Rutledge, and he (the Chancellor of the Exchequer) was satisfied, that if the experiment proved successful the result would be most important to the trade of this country and to the revenue. When he recollected the amount of public revenue that was derived from spirits, he felt it was his duty to approach such a subject with the greatest caution. He had availed himself of the services of some eminent men of science to consider this subject. Dr. Birkbeck entered into the fullest details, and he was, at the present time, of opinion, that the instrument would answer all the purposes for which it was intended. Two other eminent men, Professors Lubbock and Brande, had also expressed a favourable opinion, but they had not given the subject quite so much of their attention as Dr. Birkbeck. Three experiments had been tried in connexion with the Board of Excise, but no experiment testing the amount used as compared with the total amount of spirits produced had as yet been brought to a final result. He could only add, that he was taking the best means of bringing the matter to a final result, and if it succeeded no man would be more gratified than himself at such success.

The bill read a third time.

Mr. *Hawkes* then moved the insertion of the following clause: "And be it further enacted, that no maker or makers of glass shall make of common bottle metal any bottle or bottles smaller, or of less size or content, than what is commonly deemed or reputed an half-pint bottle; and if any maker or makers of glass shall make of common bottle metal, any bottle or bottles smaller, or of less size or content than aforesaid, the maker or makers of glass so offending shall, for every such offence, forfeit and lose the sum of fifty pounds." The object of the clause was to protect the makers of flint-glass, who, paying a much higher duty than the green-glass manufacturers, were in the habit of converting their refuse materials into small medical bottles, in which they would be unequally competed with by the green-glass manufacturers, unless this provision was inserted.

The *Chancellor of the Exchequer* said, that, upon a review of the whole subject, and after consulting the parties interested in it out of door, who were, of course, much divided upon it, he was inclined to think, that a case had not been made out for the insertion of this restriction, and he should maintain the bill as it stood.

The House divided: Ayes 28; Noes 66; Majority 38.

List of the AYES.

Egerton, W. T.
Estcourt, T.
Filmer, Sir E.
Freshfield, J. W.
Grimsditch, T.
Hope, hon. C.
Hope, G. W.
Houldsworth, T.
Hughes, W. B.
Lowther, J. H.
Lygon, hon. Gen.
Parker, R. T.
Perceval, hon. G. J.
Philips, M.
Praed, W. M.
Reid, Sir J. R.
Richards, R.
Rolleston, R.
Rushbrooke, Col.
Scarlett, J. Y.
Sheppard, T.
Sibthorp, Colonel
Vere, Sir C. B.
Vivian, J. E.
Waddington, H.
White, A.
Wood, T.
Wyndham, W.

TELLERS.
Blackburne, J. J.
Hawkes, T.

List of the NOES.

Aglionby, H. A.
Alston, R.
Anson, hon. Colonel
Archbold, R.
Bannerman, A.
Barnard, E. G.
Bernal, R.
Blake, W. J.
Briscoe, J. I.
Brotherton, J.
Brownrigg, S.
Byng, G.
Campbell, Sir J.
Collins, W.
Conyngham, Lord A.
Craig, W. G.
Douglas, Sir C. E.
Dundas, F.
Dundas, hon. T.
Ebrington, Viscount
Edwards, Sir J.
Elliot, hon. J. E.
Finch, F.
Hastie, A.
Hawes, B.
Heathcote, G. J.
Hector, C. J.
Hobhouse, Sir J.
Hodges, T. L.
Hoskins, K.
Howick, Viscount
Hume, J.
Ingham, R.
Irving, J.
James, W.
James, Sir W. C.
Lefevre, C. S.
Lushington, Dr.
Lushington, C.
Martin, J.
Parker, J.
Pechell, Captain
Price, Sir R.
Rice, rt. hon. T. S.
Rolfe, Sir R. M.
Salwey, Col.
Smith, J. A.
Somerville, Sir W.
Stansfield, W. R.
Surrey, Earl of
Tancred, H. W.
Thornely, T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Vivian, J. H.
Wall, C. B.
Wallace, R.
Warburton, H.
Ward, H. G.
Wilbraham, G.
Williams, W.
Wood, C.
Wood, G. W.
Worsley, Lord
Yates, J. A.

TELLERS
Seymour, Lord
Steuart, R.

Clause rejected, and bill passed.

REGISTRATION OF ELECTORS.] On the motion of the Attorney-general, the House went into Committee for the further consideration of the report of the Registration of Electors Bill.

On Clause 49, giving to the revising barristers power to give costs,

Mr. *Aglionby* moved an amendment to the effect that costs should be given in those cases only in which the persons objected to had previously been on the registry of voters.

Mr. *Praed* was inclined to support the amendment, but thought it would be advisable to fine the frivolous objector 10*s*., and not hear any of his other objections till the fine was paid. If no better course were suggested he would move a clause to that effect.

The *Attorney General* expressed his doubts of the expediency of adopting either of the suggestions that had been made, but thought the subject well worthy of consideration.

The Committee divided on the amendment. Ayes 39; Noes 86; Majority 47.

List of the AYES.

Alsager, Capt.
Bridgeman, H.
Brodie, W. B.
Collins, W
Ebrington, Viscount
Edwards, Sir J.
Egerton, W. T.
Evans, G.
Gillon, W. D.
Grimsditch, T.
Hall, Sir B.
Hector, C. J.
Hobhouse, T. B.
Hodges, T. L.
Hurt, F.
Hutt, W.
Kinnaird, A. F.
Lushington, C.
Martin, J.
Morris, D.
Muskett, G. A.
Nicholl, J.
Parker, R. T.
Pechell, Capt.
Perceval, Col.
Praed, W. M.
Salwey, Colonel
Sandon, Viscount
Somerville, Sir W.
Stansfield, W. R.
Stewart, J.
Style, Sir C.
Tancred, H. W.
Vigors, N. A.
Wallace, R.
Williams, W.
Wood, T.
Worsley, Lord
Yates, J. A.

TELLERS
Aglionby, H. A.
Warburton, H.

List of the NOES.

Adam, Admiral
Archbold, R.
Baines, E.
Blandford, Marquess
Bowes, J.
Briscoe, J. I.
Broadley, H.
Bruges, W. H. L.
Campbell, Sir J.
Curry, W.
Darby, G.
Elliot, hon. J. E.
Filmer, Sir E.
Graham, Sir J.
Grant, F. W.
Grey, Sir C.
Hardinge, Sir H.
Hastie, A.
Hobhouse, Sir J.
Hodgson, R.
Hogg, J. W.
Hoskins, K.
Howard, P. H.
Hurst, R. H.
James, W.
Knight, H. G.
Labouchere, H.
Langdale, hon. C.
Lefevre, C. S.
Loch, J.
Mackinnon, W. A.
Mildway, P. St. J.
Miles, P. W. S.
O'Ferrall, R. M.
Palmerston, Viscount
Parnell, Sir H.
Pendarves, E. W.
Perceval, hon. G. J.
Philips, M.
Phillpotts, J.
Polhill, F.
Rice, rt. hon. T. S.
Rolfe, Sir R. M.
Rushbrooke, Col.
Russell, Lord J.
Sheppard, T.
Sibthorp, Colonel
Smith, R. V.
Sugden, Sir E.
Surrey, Earl
Troubridge, Sir E.
Turner, E.
Vere, Sir C. B.
Waddington, H. S.
Wilbraham, G.
Wood, G.
Wood, G. W.

TELLERS.

Parker, J.
Pryme, G.

Clause agreed to.

Dr. *Nicholl* proposed the insertion of clauses providing that the revising barristers shall be enabled to reserve cases for the opinion of the superior courts of common law, which cases shall be heard in the vacation after the Michaelmas term next ensuing; that, in the mean time, the revising barrister shall give his own opinion on the case, and shall send that opinion to one of the superior courts at Westminster, which shall hear counsel on the case, and that the decision of such court shall be final.

The *Attorney General* objected to the clauses. He felt as strongly as any one the necessity of some court of appeal from the decision of the revising barristers, for the purpose of attaining uniformity, but it was clear, that this would not be the proper court of appeal. He had the most sincere reverence for the judges of our courts at Westminster, but he should be most reluctant to refer to them questions of a purely political nature. It was essential that the administration of justice in Westminster-hall should remain without suspicion; but it would be impossible to secure even the most upright of judges from some suspicion in the minds of one party or another if he were to be called upon to decide questions of a political nature. Besides, the courts at Westminster were already so overwhelmed with their own business that it was out of the question to impose any extraneous business on them. He hoped it would be part of the object of the right hon. Baronet the Member for Tamworth to provide a proper and effective court of appeal. Such an object had formed part of the plan of the hon. Member for Liskeard. He had waited with great anxiety to hear what the right hon. Baronet had to propose on this point, but he could not consent for a moment to the present proposition.

Sir *E. Sugden* was inclined to support the clauses. The questions which would come before the judges would not be political questions,but essentially questions of property, which would very fitly come before the superior courts of law. He did not see,that the additional weight of business would materially inconvenience the judges, nor did he see, that their decisions would for a moment be regarded with suspicion. He was not himself aware of any pressure of business on the courts at Westminster which could be regarded as other than a merely temporary pressure. If the judges were liable to be stigmatised for an incidental decision which might happen to be unpopular, how hard would be the case of those who should be appointed for the sole purpose of deciding appeals in those cases. The opinions of the latter would be in no degree respected, and they would be liable to be regarded as mere political partisans. If the hon. Gentleman pressed the clauses to a division, he should vote with him, but he should suggest to him to postpone them to a future state of the bill, when they might be more advantageously discussed.

Mr. *Warburton* had no respect for the decisions of judges on political questions, particularly when he recollected how the rights and properties of corporations had been gradually undermined by decisions of the judges of the land. He thought the rights of the people and the privileges of the House would be greatly endangered by making the judges a court of appeal on questions of this kind.

Mr. *Praed* observed, that a great number of the questions at present decided by the courts of laws at Westminster were of a political character, yet the decisions of the judges in such cases were not regarded with suspicion. A great many new questions of a political character had been introduced into our courts of law by the Attorney General's own Municipal Reform Act. If the question went to a division he should vote with his hon. and learned Friend.

Dr. *Nicholl* withdrew his clauses.

The House resumed, the Report to be received.

POST-OFFICE BILL.] The *Chancellor of the Exchequer* moved the second reading of the Post-office Bill.

Colonel *Sibthorp* expressed his surprise that such a bill as this should have emanated from a ministry professing economy. The bill proposed to create three commissioners, one with a salary of 2,000*l.* per annum and a seat in this House, and the other two commissioners with salaries of 1,200*l.* each, making a charge upon the country which he could not but designate as a legal fraud of 4,400*l.* per annum. The House, at this late period of the Session, was completely taken by surprise with this hasty attempt at increase of patronage. If the noble Earl at the head of the Post-office department had misconducted himself, let the Government dismiss him, but at all events he protested against the proposition for this increased expense. He protested against the bill altogether, and would take the sense of the House against it at every stage.

The *Chancellor of the Exchequer* would not weary the House by replying to the general argument of the hon. and gallant Officer, because they were those which he used on every occasion he spoke, always taking care to vituperate her Majesty's Ministers. He would come at once to the bill itself. It would, no doubt, be in the recollection of the House, that this bill was the result of the reports of no less than three separate commissions of inquiry. The principle it proposed to adopt was recommended by the commission of which Lord Wallace was at the head. The commission on which the noble Lord the Member for Westmorland (Lord Lowther) presided, had also recommended the adoption of the principle contained in this very measure. Now, he presumed he might say, that the noble Lord (Lord Lowther), in consequence of the political opinions he entertained, was a person who would not be very desirous or anxious to place patronage unnecessarily in the hands of the present Government. His best supporter, on the present occasion, was the noble Lord, for the bill was as much the noble Lord's as his. He did not say this either in disparagement of the bill or of the noble Lord, but in order to do the noble Lord a common act of justice for the great pains, attention, and consideration which he had bestowed upon this subject; and yet the hon. and gallant Officer had said, with respect to a bill so brought forward and so recommended, that it was a measure introduced by surprise, and for the purpose of effecting some fraud, by passing it through the House at this period of the Session. The House would also recollect that this was only the renewing of a bill which had been rejected by the House of Lords in the last Session. But he was not to be deterred by that circumstance from bringing it forward again, and he would do his utmost to pass it through that House, whether it was rejected in another place or not, and it was not his fault that the bill had been so long before the House. With regard to the objection of the hon. and gallant Officer to the chief commissioner of the post-office being a Member of that House, he begged to say that the Postmaster-general, under the present system, was a Member of Parliament, not of that House certainly, but of the House of Peers. He, however, thought, that, looking to the circumstance that the post-office was a revenue department, that it would be far better that the head of the board to preside over that office should be a Member of that House, rather than of the House of Lords, and should be a person cognisant of the principles and management of a revenue department, which was particularly within the province of that House, and conversant with the exigencies of the present time, when by the extension of railroads, alterations and changes were required to be effected, not only weekly, but daily—nay almost every hour.

The House divided. Ayes 48; Noes 12. Majority 36.

List of the AYES.

Adam, Admiral
Aglionby, H. A.
Archbold, R.
Baines, E.
Bernal, R.
Blake, M. J.
Brotherton, M. J.
Bruges, W. H.
Campbell, Sir J.
Chalmers, P.
Curry, W.
Elliot, hon. J. E.
Ferguson, Sir R.
Filmer, Sir E.
Gillon, W. D.
Hall, Sir B.
Hayter, W. G.
Hobhouse, Sir J. C.
Hobhouse, T. B.
Hodges, T. L.
Hodgson, R.
Hogg, J. W.

Howard, P. H.
Hume, J.
Hurt, F.
James, W.
Knight, H. B.
Langdale, hon. C.
Lynch, A. H.
Melgund, Viscount
Milnes, R. M.
Morpeth, Viscount
Murray, rt. hon. J.
Palmerston, Viscount
Parker, J.
Philips, M.
Ramsbottom, J.
Rice, T. S.
Rolfe, Sir R. M.
Salwey, Col.
Stewart, J.
Thomson, C. P.
Thornely, T.
Troubridge, Sir E.
Vigors, N. A.
Wallace, R.
Warburton, H.
Worsley, Lord

TELLERS.
O'Ferrall, M.
Stewart, R.

List of the NOES.

Bagge, William
Broadley, Henry
Darby, G.
Dick, Q.
Farnham, E. B.
Grimsditch, T.
Hope, hon. C.
Perceval, Col.
Perceval, hon. G. J.
Rushbrooke, Col.
Vere, Sir C. B.
Wood, T.

TELLERS.
Sibthorp, Col.
Buller, Sir J. Y.

Bill read a second time.

SCHOOLS (SCOTLAND) BILL.] On the motion that the report be received,

Mr. *Gillon* moved, that the report be received that day three months.

The *Chancellor of the Exchequer* said, that this bill related merely to forty-one Highland schools and he had no objection to a clause to make those forty-one schools subject to any general measure that might be subsequently adopted.

Mr. *Hume* thought it would be better not to press the measure during the present Session.

Mr. *Gillon* said, he would withdraw all opposition if the Chancellor of the Exchequer would undertake that the money should be under the control of the treasury, instead of being placed at the disposal of the Established Church of Scotland.

The House divided on the original motion. Ayes 37; Noes 12.—Majority 25.

List of the AYES.

Adam, Admiral
Baines, E.
Broadley, H.
Brotherton, J.
Buller, Sir J. Y.
Curry, W.
Darby, G.
Dick, Q.
Elliott, hon. J. E.
Ferguson, Sir R. A.
Filmer, Sir E.
Grimsditch, T.
Hall, Sir B.
Hobhouse, Sir J.
Hodges, T. L.
Hodgson, R.
Hope, hon. C.
Hurt, F.
James, W.
Knight, H.
Melgund, Visct.
Milnes, R. M.
Morpeth, Visct.
Murray, hon. J. A.
O'Ferrall R. M.
Parker, J.
Perceval, Col.
Philips, M.
Rice, T. S.
Rolfe, Sir R. M.
Rushbrooke, R.
Thomson, C. P.
Troubridge, E. T.
Vere, Sir C. B.
Wallace, R.
Wood, T.
Worsley, Lord

TELLERS.
Attorney-General
Steuart, R.

List of the NOES.

Aglionby, H. A.
Archbold, R.
Blake, M. J.
Chalmers, P.
Hobhouse, T. B.
Howard, P. H.
Hume, J.
Lynch, A. H.
Salwey, Col.
Thornely, T.
Vigors, N. A.
Wood, G. W.

TELLERS.
Gillon, W. D.
Langdale, G.

Report brought up.

HOUSE OF COMMONS,

Wednesday, July 18, 1838.

MINUTES.] Petitions presented. By Mr. MACLEAN, from Glasgow, to take Foreign Commerce into consideration.—By Mr. W. NOEL, from Burley (Rutland), to discontinue the Grant made to the College of Maynooth.—By Sir R. INGLIS, from the Clergy of Winchester, against the Parochial Assessments Bill.

WESTERN AUSTRALIA.] Sir G. Grey moved the second reading of the Western Australia Bill.

Mr. *Hindley* would suggest to the hon. Baronet whether it was fit in the present state of Australia to continue till 1841, as this bill proposed to do, the powers which certain individuals—the commissioners—already had. He also thought the aborigines ought to be protected, and that a clause should be introduced by which a certain portion of land should be appropriated to native inhabitants. He threw out these suggestions to the hon. Baronet, and he hoped this bill would be so framed in Committee as to meet the cases to which he had adverted.

Sir *George Grey* said, that measures had been taken for protecting the aborigines, which he hoped would prove satisfactory to the hon. Member.

Mr. *Hume* said, when this establishment was commenced, the House received a pledge, that no establishment should be charged on the consolidated fund; instead of which there would be a vote proposed in the course of a few days for 12,000*l.*, whilst there were only 2,000 inhabitants. This was one means of robbing the people of England to keep up an establishment. There was no necessity for a governor and all the other paraphernalia which were found here. It appeared to him, that the Colonial Department got money a great deal too easy. Here was a grant of money as large as could be required for a colony of 60,000, or 70,000 persons. He had no doubt the hon. Gentleman at the head of this Department found the office as it now was, but if he dealt fairly with the people of England, he would make the parties in the colony contribute to their own expense, instead of which the colony consisted of persons supported principally at the public expense.

Bill read a second time.

Recovery of Tenements.] Mr. *Aglionby* moved, that the Report on the Recovery of Tenements Bill should be further considered.

Sir *E. Sugden* wished to know whether it were the intention of the hon. and learned Member to press the bill further during the present Session. The reason he asked that question was, the absence of several country Gentlemen who were anxious to take part in the discussion on the bill.

Mr. *Aglionby* said, that it certainly was his intention to press the bill forward with all the energy he was possessed of, as it had already been postponed for three different Sessions in consequence of one of the most uncalled-for oppositions, that was ever heard of.

Sir *E. Sugden* said, that such being the case, he felt bound to move, that the bill should be re-committed that day three months. He was sure, if the House wished to keep well with the country, it would not pass the bill, as it gave all the advantage to the rich and none to the poor. That might do very well in Turkey; but it would not do in a civilized country. According to the wording of the bill before the House, the very nicest points of law would be submitted to the consideration of two justices—men, who of necessity, were almost unacquainted with the laws of property. The very first use which would be made of the bill, would be the oppression of the poor, who were now in the enjoyment of wastes or manors. No doubt a great number of poor persons would be immediately turned out of such enjoyment, as, with the assistance of two justices, that might be done, at an expense of from 3*s*. to 4*s*. The object of this bill was, to give the power of turning out at the will of the landlord every humble tenant, and without any expense to the landlord. He certainly did not expect such a measure as this would come from what was called the Liberal side of the House. The rights of the poor would be trampled on by this bill. He believed the bill proceeded altogether on a wrong principle, and he should give it his most decided opposition. He thought the hon. Gentleman ought to give more time for this bill to be circulated amongst the people, in order that their opinions might be ascertained. He could not see what necessity there was, for such desperate haste, to inflict so serious an injury on the lower orders of the people for the benefit of the rich.

Sir *E. Wilmot* thought the evils anticipated by the right hon. Gentleman (Sir E. Sugden) had been grossly exaggerated. He would be the last man in the empire, to give the magistrates a power which they ought not to have. He agreed with the right hon. Gentleman, that magistrates ought not to be called on to decide on intricate points of law, where tenants in bail and tenants in fee and settlements were involved. But they were to be called on to decide on merely trivial matters. The country, so far as he was aware, was almost unanimous in thinking this a fair bill.

Mr. *Aglionby* congratulated himself on the speech of the right hon. Member for Ripon, for had he spoken at an earlier period, he (Mr. Aglionby) might not have been able to control his remarks on the misrepresentations which the right hon. Member had made of this bill, as well as on the tone, manner, and expressions used towards himself as a public individual. He was willing to throw himself upon the country and be tried by it, whether he was not as little likely to introduce any law savouring of Turkey, as the right hon. Member himself. He admitted the statement of the right hon. Gentleman, that the present was not the same bill that had been three times postponed; but why was it not so? Because the Select Committee to which the bill had been referred, had altered it. The bill in the present shape was not so favourable to the poor as when it was originally introduced, because under it the magistrates were made judicial instead of ministerial. He felt bound to deny the statements of the right hon. Member, that he had acted unjustly towards the poor man, his object was to protect him against the oppression of the rich. As the law at present stood the tenant would have in many cases a notice of forty-three days, but in all he must have thirty-one before he went out. He had applied to the right hon. Gentleman for his assistance upon the committee, which had been refused; he therefore thought it was most unjust and improper for him to indulge in such harsh language with respect to the labours of the committee. The Bill was intended to bring home justice to the poor man. The cottages of the poor landlord were as much entitled to protection as the mansions of the rich. He was anxious to protect the poor, and would consent to any amendment for that purpose in the Committee—but he would not consent to protect the dishonest man at the expense of one probably not much richer than himself from whom he detained his property. In justice to himself he must say, that since he intended to bring in the bill he had taken the opportunity of sending the bill to every place throughout the country—not to landlords alone but to every mechanics news-room of which he had the slightest knowledge, and the only complaint he had heard against the bill was, that it did not go far enough for the protection of the small landlords. He trusted the House would allow the bill to be committed.

The *Solicitor General* said, he was quite prepared cheerfully to submit to any unpopularity that might be supposed to attach itself to this bill, which he did not hesitate to say was a great improvement. It was, indeed, a bill quite as much calculated for the benefit of the poor as for that of the rich; as respected the former it must tend to encourage the building of convenient tenements for the occupation of the labouring and poorer classes. As the law stood with respect to the rich man, or landlord, it was absurd; the only chance a landlord now had of getting possession of a cottage forcibly withheld from him, after the termination of the demise or letting, was to bring his action of ejectment against a person who, if defeated, had no property sufficient, in 99 cases out of 100, to pay the costs, much less the damages that might be awarded. The bill, in effect, intended to do justice cheaply for the poor man and expeditiously for the landlord, and would mediate between them when they became litigants for the possession of the tenement in question.

The House divided on the original motion:—Ayes 112; Noes 7: Majority against the amendment 105.

List of the AYES.

Acland, T. D.
Bagge, W.
Baillie, Colonel
Baines, E.
Barnard, E. G.
Barrington, Viscount
Bellew, R. M.
Blackstone, W. S.
Blake, W. J.
Blennerhassett, A.
Bowes, J.
Bramston, T. W.
Brodie, W. B.
Brotherton, J.
Brownrigg, S.
Bruges, W. H. L.
Bryan, G.
Campbell, Sir J.
Chalmers, P.
Chute, W. L. W.
Compton, H. C.
Corry, hon. H.
Crawford, W.
Crawley, S.
Curry, W.
Dalmeney, Lord
Darby, G.
Douglas, Sir C.
Ebrington, Lord
Egerton, W. T.
Elliott, hon. J. E.
Estcourt, T.
Estcourt, T.
Fector, J. M.
Filmer, Sir E.
Freshfield, J. W.
Gladstone, W. E.
Gore, O. W.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Greene, T.
Grote, G.
Hardinge, Sir H.
Harvey, D. W.
Hastie, A.
Hawes, B.
Hector, C. J.
Hodges, T. L.
Hope, hon. C.
Howard, P. H.
Howick, Lord
Hume, J.
Hurst, R. H.
Hurt, F.
Hutton, R.
Inglis, Sir R. H.
James, W.
Jermyn, Earl of
Kinnaird, A. F.
Langdale, hon. C.
Lascelles, W. S.
Lefevre, C. S.
Lemon, Sir C.
Lushington, C.
Mackenzie, T.
Martin, J.
Maule, hon. F.
Mildmay, P. St. J.
Murray, J. A.
Muskett, G. A.
Pakington, J. S.
Palmer, G.
Parker, J.
Parker, M.
Parker, R. T.
Pattison, J.
Pechell, Captain
Peel, Sir R.
Philips, M.
Praed, W. T.
Pusey, P.
Richards, R.
Rushbrooke, Col.
Salwey, Colonel
Sandon, Lord
Sanford, E. A.
Sheppard, T.
Sibthorp, Colonel
Sinclair, Sir G.
Smith, B.
Stanley, E. J.
Stanley, Lord
Strutt, E.
Tennent, J. E.
Thornley, T.
Townley, R. G.
Troubridge, Sir E. T.
Vere, Sir C. B.
Verner, Colonel
Vigors, N. A.
Villiers, Lord
Waddington, H.
Wallace, R.
Warburton, H.
Welby, G. E.
Wilbraham, G.
Williams, W. A.
Wilmot, Sir J. E.
Wodehouse, E.
Wood, C.
Wood, G. W.

TELLERS.
Aglionby, H. A.
Rolfe, Sir R. M.

List of the NOES.

Baring, H. B.
Collins, W.

Fielden, J.	Style, Sir C.
Hayter, W. G.	TELLERS.
Morris, D.	Sugden, Sir E.
Somerset, Lord G.	Wood, Captain

House in Committee.

On the first clause being put.

Sir *R. Peel* hoped the same measure of justice would be extended to the landlords of tenements above 10*l.*, as was by this bill to those of tenements under that sum. He considered it highly dishonest that persons should hold possession of property, in despite of their landlords, after due legal notice had been given to quit, and had no sympathy with tenants of any class who would so act. Upon that ground he considered that a summary process, if necessary, in case of a small tenement was equally so in that of a large. This process might be different in the two cases, but the principle was the same, whether the tenement was one of 10*l.* value, or of 100*l.* He certainly could not see any reason why the constituent body were to be doubly privileged, and, if this bill were to pass as now proposed, there could be no doubt that it would confer on them another privilege besides the elective franchise. He for his own part, did not see what the amount of the rent had to do with the principle of the measure. So far as the principle was concerned he undoubtedly approved of the bill, but then instead of fixing the limit at 10*l.*, he, for his own part, would prefer extending the jurisdiction to 20*l.*, or even to a higher amount.

The *Attorney General* was glad to find that this measure had met with such general approbation from all sides of the House, and he admitted that the present state of the law on this subject was a disgrace to the judicature of the country. Although he concurred in what had fallen from the right hon. Baronet opposite he still was disposed to think that it was better to proceed gradually than to risk anything by effecting too great a change in the first instance. He approved of the limit as to the amount of the rent fixed by the first clause, but he had no hesitation in saying that if the measure should be found to work well he would have no objection whatever to extend the jurisdiction at some future period to 20*l.*, or even to a higher amount.

Mr. *Harvey* entirely concurred in all that had fallen from the right hon. Baronet, the Member for Tamworth. The amount of the rent was in truth wholly immaterial, and for his own part he could not understand why the principle of the bill, if it were to be called into operation at all, should not apply to the lofty palaces of the rich as well as to the humble cottages of the poor. By this measure they were clearly establishing one law for the rich and another for the poor, and to such a proceeding he must strongly object. Now with regard to the amount of rent, the only point to be ascertained by the magistrates would be whether or not the relation of landlord and tenant subsisted between the parties, and if that fact were once admitted it was clear that the amount of the rent, whether it were high or whether it were low, would be altogether beside the question for decision. Whether, therefore, the rent were 10*l.* or 1,000*l.* the principle would be the same; but of course if the fact of the payment of rent were disputed, then a question with respect to the right of property would arise which could not be determined by the magistrates but must be referred to the ordinary tribunals of the superior courts. This bill, he admitted, would effect a partial good; but so averse was he to bit and bit legislation that he would not object to its being referred to a committee up stairs, in the hope that next Session they would be able to pass some comprehensive measure which would settle all disputed points and place the law of landlord and tenant on the clear and intelligible footing on which it ought to stand. Now there was a hardship which he knew professionally, and from personal experience often occurred. It not unfrequently happened, and that, too, by the connivance of the tenant, that the whole property on the premises were swept away under an execution a few day before quarter day. This was done to defraud the landlord of the quarter's rent, and as he could not distinguish between such a case and the fraudulently taking of a chattel, he would wish to see protection afforded to the landlord in such cases. He was, however, glad that the subject had been taken into consideration by the right hon. Baronet the Member for Tamworth, and if the right hon. Baronet would extend the jurisdiction in the present case, not to 20*l.* but 1,000*l.* he would support him.

The *Solicitor General* was of opinion that they ought not to exceed the limit fixed in the clause, and he stated this without any wish whatever that the poor should be placed in a different situation from the rich. He was satisfied that the bill would be as much an advantage to the tenant as to the landlord.

Sir *E. B. Sugden* said that, according to his own argument, the hon. Member for Southwark ought to vote with him. The hon. Member for Southwark contended that no difference should be made between the rich and the poor, and it was because this bill would establish such a difference that he (Sir E. Sugden) objected to it. The rights of the poor would be committed under this measure to the decision of an inferior tribunal, and as this was an arrangement to which the rich would not submit, he felt it to be his duty to oppose it.

Mr. *Pryme* contended, that the whole course of English Legislation for centuries had been to establish cheap tribunals, where the amount in dispute was small; but where the sums were larger, they were submitted to a more expensive and august tribunal. This had been the course of legislation from the days of Alfred down to the present time. So much for ancient law and ancient customs, of which the right hon. and learned Gentleman (Sir E. Sugden) was at all times the powerful advocate. Did the right hon. and learned Gentleman mean to say, whether the amount in dispute was 5*s* or 50*s*, or 9*l*. 19*s*., as by this bill, that the subject in dispute should be determined by the same jurisdiction as if 1,000*l*. were concerned? In modern times they had had the Trespass Bill, under which Magistrates had the power to adjudicate on cases under 5*l*. and therefore the principle adopted by the bill was in accordance with both ancient and modern legislation. If this bill worked well, it might be hereafter extended; but it was no argument against the measure to say, that it could not remedy every grievance.

Mr. *Hawes* was prepared to support the bill as it stood. At the same time he should like to know whether the House would go with him in raising the amount to 20*l*. He knew the inhabitants of large towns and of their vicinities were desirous that such should be the case; and if the bill were limited to 10*l*., it would be almost wholly confined to rural districts.

Sir *Robert Peel* had not suggested that the sum should be 20*l*. out of any hostility to the bill, but was prepared to propose, that amendment if he could feel sure, that he should not, by doing so, endanger the He did so on principle, and he should be equally ready to vote for property of 1,000*l*. being subjected to a summary jurisdiction. He thought he had therefore better at once move an amendment, and would therefore propose the introduction of the words "property rated at a sum not exceeding 20*l*."

Mr. *Estcourt* as a Member of the Committee, had been in favour of the reduction from 20*l*. to 10*l*., in order to get rid of the supposition, that there was any political object in view. He had, however, no objection to the amount being fixed at 20*l*. and should therefore vote, if necessary, for the proposition of his right hon. Friend.

Mr. *Darby* wished to know from the Attorney-general whether or not, under the clauses, a magistrate might not be called upon to decide a question of title. He also thought great oppression and injustice might be inflicted under this bill, on those who might be ejected from cottages which had garden ground attached.

The *Attorney General* said, in answer to the question of the hon. Member, no doubt a case of this sort might arise, A landlord might die, and the tenant might question the son's right as to his legitimacy, but in 999 cases out of every 1,000, the question would be merely one of common tenancy. He certainly was not wedded to fixing the amount at 10*l*. and would therefore withdraw his opposition to extending the sum to 20*l*.; at the same time he must deny the observation, that had been made by the right hon. and learned Gentleman, that this was a law for the rich and not for the poor. By the existing law a sum under 40*s*. was recoverable in the county courts, and under 5*l*. in the courts of conscience, and no one would pretend to say, that therefore, it was intended by this bill, to make one law for the rich and one for the poor. On the same ground, that those inferior jurisdictions had been formed, it was intended, that cases of ejectment from tenements or property held under 20*l*. should be referred to the decison of the magistrates, because the expense of ejectment under the existing law was so great.

Amendment of Sir R. Peel agreed to.

The bill went through the Committee.

The House resumed, the Report to be received.

PAROCHIAL ASSESSMENTS BILL.] On

the motion for going into Committee on the Parochial Assessments Bill,

Mr. *Goulburn* said, that the title of this Bill had so little reference to its clauses, that it would not be competent for any Member to introduce it into Committee. He thought it would, therefore, be better, that the bill should be allowed to drop.

Mr. *Shaw Lefevre* said, that as doubts had arisen as to the purpose of the bill, he would move as an amendment, the insertion of the words "declare and enact" in each clause.

Mr. *Goulburn* said, that bringing in a bill in the manner in which that bill had been introduced, was a total perversion of the constitutional practice of the House. He felt it was a point on which the House ought to be jealous, and he hoped, that some remedy would be found by the hon. Gentleman opposite.

The *Speaker* said, it was certainly the general rule, that a declaratory bill should not also be an enacting one; but he thought, that if any doubt existed on the subject, the mistake could be remedied by an instruction to the Committee.

The *Attorney General* said, that he did not feel the weight of the right hon. Gentleman's objection, as the mistake to which he alluded was merely technical, and could be easily remedied.

Mr. *Goulburn* said, he had felt it his duty to make the objection, not with the view of throwing an obstacle in the way of a bill of which he disapproved on other grounds, but because he thought it of importance that the House should adhere to those rules which had so long governed their forms of proceeding. He would now say a few words as to the general principle of the measure, which he considered as one of great injustice. It was a bill which, if passed in its present form, would alter the mode of rating property in parishes. The principle of the law of rating had always been, that it was to press equally on property, but this bill would depart from that principle, for in some cases it would make the rating on the whole profit derived from the produce of the land, while in others it would be made only on a portion of such profits. This was most unjust in principle, and in its application to many individuals, to the clergy, and to the owners of capital invested in railroads, canals, and many other species of property which were totally distinct from the profits of the lessor. In an act which had passed the Legislature for encouraging the commutation of tithes, the clergy were invited to take a rent-charge on land instead, which rent-charge would be subject to the same rating as when the property was tithe in the hands of the incumbent. But the effect of this bill would be to increase the amount of the rate on the rent-charge far beyond what it ever had been on the tithe. This he considered an act of gross injustice. One clergyman who had been rated on the one-fourth of his tithes, would now be rated on two-thirds of the rent-charge, which had been given in lieu of them, though he had been assured, that his rating on the rent-charge would not exceed that on the amount previously received as tithe. The difference between the present and the former rating would be 43*l.* beyond the former amount. In another case, in Shropshire, a clergyman, whose whole income from his living did not exceed 150*l.*, and from which he had to pay a curate, would, if this bill were to pass, have an increase on his rating of 20*l.* a-year. The remark of the Gentleman from whom he had this statement was, that should this bill of Mr. Shaw Lefevre pass, he doubted whether that Gentleman's servant would be satisfied with the income which would then remain to this clergyman. He thought it would be highly indiscreet in the House, without inquiry, without information or discussion on the subject, to pass this measure at the present advanced period of the Session, and he begged to conclude by moving, "That further proceedings on the bill be postponed to that day three months."

Mr. *C. Wood* contended that it would be great injustice to delay the passing of a measure so imperatively called for, and so much affecting the interests of all parties.

Sir *R. Inglis* supported the amendment, because he thought it was a measure that would put into the pockets of the landholders a large sum of money that belonged properly to the tithe owners.

Mr. *Darby* was convinced that the principle of the bill was a right one, and did not think that the land-owners should first pay for the rent which they received, and afterwards for the profits of their tenants. If the land-owner and tithe-owner were charged on the rent which they received, justice would be done.

Mr. *Lefevre* explained, that where tithe-owners had been more indulgently rated hitherto, this bill would not produce any result of which they need be afraid.

Mr. *Bruges* said, that the House, in legislating on this subject, ought to consider the rent-charge as so much tithe, and then the question would be, supposing the tithe to be let, what sum was it likely to obtain? Upon that sum it was, that the assessment ought to be made, and it would not be fair to place the tithe-owner in a worse situation with regard to assessment than the landlord. As it was impossible to allow the law to remain in its present state, and as the bill, if properly worded, might prove beneficial, he should vote for the Committee.

The House divided on the original motion:—Ayes 59; Noes 31: Majority 28.

List of the Ayes.

Aglionby, H. A.
Baines, E.
Bannerman, A.
Barnard, E. G.
Blake, M. J.
Blake, W. J.
Brodie, W. B.
Bruges, W. H.
Bryan, G.
Buller, E.
Campbell, Sir J.
Chalmers, P.
Chute, W. L. W.
Crawley, S.
Curry, W.
Dalmeny, Lord
Darby, G.
Duckworth, S.
Finch, F.
Gillon, W. D.
Greene, T.
Hall, Sir B.
Handley, H.
Hawkins, J. H.
Hector, C. J.
Hindley, C.
Hodges, T. L.
Hume, J.
Hurst, R. H.
Hutton, R.
James, W.
Langdale, hon. C.
Lemon, Sir C.
Lynch, A. H.
Maule, hon. F.
Melgund, Viscount
Morris, D.
Murray, J. A.
Muskett, G. A.
O'Brien, W. S.
Parker, J.
Pechell, Capt.
Philips, M.
Pryme, G.
Redington, T. N.
Rolfe, Sir R. M.
Salwey, Colonel
Smith, B.
Strutt, E.
Style, Sir C.
Thornely, T.
Wallace, R.
Warburton, H.
Ward, H. G.
White, A.
Williams, W. A.
Wood, Sir M.
Wood, G. W.
Wyse, T.

TELLERS.

Lefevre, S.
Wood, C.

List of the Noes.

Arbuthnott, H.
Bagge, W.
Blackstone, W.
Blair, J.
Blandford, Marquess of
Bramston, T. W.
Compton, H. C.
Dalrymple, Sir A.
Egerton, W. T.
Fellowes, E.
Filmer, Sir E.
Freshfield, J. W.
Gladstone, W. E.
Goulburn, H.
Grant, F. W.
Grimsditch, T.
Hope, hon. C.
Mackenzie, T.
Palmer, G.
Parker, M.
Peel, Sir R.
Polhill, F.
Praed, W. T.
Richards, R.
Rushbrooke, Col.
Tennent, J. E.
Tyrell, Sir J.
Vere, Sir C. B.
Waddington, H.
Wodehouse, E.
Wood, Colonel T.

TELLERS.

Inglis, Sir R.
Estcourt, T.

House in Committee.

On the first Clause,

Mr. *Goulburn* said, that great injustice would be done were this clause carried into operation. There were many cases in which tithe had been commuted under the recent Act, and unless a clause was inserted in the bill applicable to those cases, a much higher rate would be imposed on the rent-charge than what had been formerly charged upon the tithe. Such a proceeding was highly improper and unjust, and he wished to know from the hon. Gentleman who had framed the bill, whether he would consent to the introduction of a clause protecting the interests of those who had commuted their tithes by an equitable adjustment into a rent-charge?

The *Attorney General* said, that it was absolutely necessary that a measure of this kind should pass before the Tithe Commutation Act came into compulsory operation, but if the right hon. Gentleman would frame a clause protecting the individual cases to which he had alluded, he (the Attorney General) would support it.

Sir *R. Peel* said, that it was not the duty of his right hon. Friend, but the duty of those who framed the bill to propose a clause to prevent the injustice of which his right hon. Friend had complained. He thought that they were proceeding to legislate on this subject with great precipitation, and he contended, that time ought to be afforded for more mature deliberation. The interests of the tithe-owner had not been sufficiently attended to, and if the time were allowed, an equitable arrangement might be effected in regard to the owners of tithe. He would not say, that a measure of this kind was not necessary, but rather than proceed without mature deliberation to legislate on a subject so important as the present, it would be better to suspend for a time the compulsory operation of the Tithe Commutation Act. Of the two evils, that, he thought, would be the least, for at present they were totally without information on this subject, while it was clear that great injustice would result from the operation of the bill if it were passed. The interests of the land-owner had been more attended to than the interests of the tithe-owner, and they might depend upon it, that if they, as land-owners, acted upon that principle, posterity would condemn their legislation. The interests of the Church would be seriously affected were this measure carried into operation. It would also alter the liabilities of property, and he therefore contended that time ought to be allowed for further consideration, as the House had not sufficient information to enable them to come to a sound decision on the subject.

Mr. *C. Wood* said, that great injustice would be done if this measure were not passed.

Mr. *E. Buller* considered a measure of this kind necessary; but he thought, that they were dealing with too much haste with the important question of the liability of property.

Colonel *Wood* thought, the shortest way would be, to introduce a clause to exempt all future rent-charges from poor-rates; and at the same time make no additions to the tithe compositions for the rate. That would, he thought, settle the question of rating profits.

Mr. *Aglionby* observed, that it was said that in many parts of England, the farmers had been living upon their capital, and that the yeomanry were gradually disappearing; but whether that was the case or not, there would be great difficulty in ascertaining the rate of profits of farmers; because, in many parts of this country, farmers did not keep books. As to the Tithe Commutation Act, the general feeling in the north and west of England, was not that the landowners received any great benefit from that act.

Sir *R. H. Inglis* did not concur in the suggestion of his hon. and gallant Friend, but still he recommended the reconsideration of this subject to the hon. Member for Hampshire.

Sir *E. Sugden* said, he had already stated, that he felt that the case of "The King *v.* Joddrell" was not law, and that the bill was right; but he voted against the bill, because it was very dangerous for that House, by legislation, to reverse the decisions of courts of justice; he was afraid it would become a precedent, to which they would hereafter find themselves bound to hold. But there was another objection; the bill appeared to him not at all adapted to meet the real difficulties of the case, and he thought it would be unwise to pass such a bill, because it must necessarily be inefficient. It was too late in the day to talk of rating profits.

The *Solicitor General* concurred in the views stated by the hon. and learned Member for Cockermouth, and could not think that the bill would interfere with voluntary commutations, or with those compulsory commutations which would take effect in October next.

Clause agreed to. The House resumed, and the Bill was reported.

Public Records.] On the motion for going into Committee on the Public Records Bill,

Colonel *Sibthorp* objected to going into Committee at so late an hour. He moved, that the House do now adjourn.

The *Chancellor of the Exchequer* observed, that the hon. Member had stated that the Record Commission cost the country large sums of money. He should not then stop to inquire with which side of the House that commission had originated; but should then content himself with saying, that the object of the present measure was merely the improvement of that commission, and it would be for the House to judge of the consistency of the hon. Member, who had previously made such loud complaints of the expenses attendant upon the commission, and now at once proceeded to oppose a bill, the main object of which was, to place all matters relating to the public records under the unpaid control of the Master of the Rolls.

The House divided on the motion of adjournment:—Ayes 2; Noes 39: Majority 37.

List of the Ayes.

Bagge, W.
Blackstone, W. S.

TELLERS.
Sibthorp, Colonel
Sinclair, Sir G.

List of the Noes.

Ackland, T. D.
Aglionby, H. A.
Baines, E.
Bannerman, A.
Blake, M. J.
Broadley, H.
Brotherton, J.
Bruges, W. H. L.
Campbell, Sir J.
Chalmers, P.
Chichester, J. P. B.
Craig, W. G.

Ebrington, Viscount
Filmer, S. E.
Freshfield, J. W.
Gillon, W. D.
Hobhouse, T. B.
Hodges, T. L.
Hume, J.
Hurt, F.
James, W.
Langdale, hon. C.
Lefevre, C. S.
Maher, J.
Mildmay, P. St. J.
Parker, R. T.
Redington, T. N.
Rice, right hon. T. S.
Rolfe, Sir R. M.
Rushbrooke, Colonel
Salwey, Colonel
Sanford, E. A.
Smith, B.
Tennent, J. E.
Vigors, N. A.
Wallace, R.
Warburton, H.
Williams, W. A.
Wood, G. W.

TELLERS.
Maule, F.
Parker, J.

The House in Committee.

Clauses of the bill were agreed to, and House resumed.

HOUSE OF LORDS,

Thursday, July 19, 1838.

MINUTES.] Bills. Read a first time:—Loan Societies (Ireland); Port of London; Coal Trade; County Treasurers (Ireland); Revenue Departments Securities; Apostate Friends Affirmation; and Insane Persons (England).—Read a second time:—Captured Slave Vessels; Vagrant Act Amendment; Administration of Justice in New South Wales.—Read a third time:—Qualification of Electors; Judges' Jurisdiction Extension.

Petitions presented. By the Bishop of HEREFORD, from a place in his Diocese, by the Bishop of SALISBURY, from Westbury (Wilts), and by the Bishop of GLOCESTER, from Merchants, Bankers, and other Inhabitants of Bristol, from Norwich, from the Wesleyan Methodists of Maidenhall, in Suffolk, from St. John, Hampstead, from Birkenhead and its neighbourhood, and from the Wesleyan Methodists of Salisbury, against Hindoo Idolatry.—By the same right rev. Prelate, against a continued support to the Romish College of Maynooth; from the Village of Peckham and its vicinity, from the Inhabitants of Derby, from Saffron Walden, in the county of Essex, and from the Protestant Association of London, against a Grant to Maynooth.—By Earl CAWDOR, from the Commissioners of Supply of Nairn, and by the Earl of HADDINGTON, from the Commissioners of Supply of Elgin, against parts of the Prisons (Scotland) Bill, and from the Commissioners of Supply of Dumbarton, to the same effect.—By the Duke of RICHMOND, from Ossal (Sussex), and by the Duke of SUTHERLAND, from the county of Sutherland, for reduction of Postage.

INTERNATIONAL COPYRIGHT BILL.] The Marquess of *Lansdowne*, in moving the third reading of the International Copyright Bill, stated that the object of the measure was to secure to the works of foreign authors in this country the same protection from piracy which British authors enjoyed, provided the governments of such foreign authors extended a similar privilege to the works of British authors in their respective countries. An arrangement of that nature could not now be made except by a specific treaty, which must be laid before Parliament. But it was provided by this bill, that her Majesty, by an Order in Council, might give effect to any such arrangement. It was impossible to say what the operation of this Bill might finally effect, or how many countries would be willing to accede to such an arrangement as he had adverted to. But he could assure their Lordships that the subject had not been taken up without first ascertaining that there was a disposition on the part of several European Governments to concur in such an arrangement, which would be, he need hardly add, extremely beneficial to the general interests of literature.

Lord *Ellenborough* expressed his approbation of the principle of the measure. He conceived that such an arrangement as was contemplated by the bill was most desirable both for this country and the other nations of Europe. But, in his opinion, the bill, in some points, required amendment. Looking to the first clause, it appeared that the bill applied to those authors only who divulged their names when they published their books. But the noble Marquess must know that some of the most valuable works were those which, in the first instance, were published without the author's name. Thus, in the case of Sir Walter Scott, when he originally published his novels his interests would not have been protected by this bill had it been in existence at the time, because he had not divulged his name to the world. Therefore, it appeared to him to be necessary that an alteration should be made in the bill so as to protect the interests of those who published their works without divulging their names. The noble Lord also suggested that alterations should be made in that part of the bill which related to the regulations connected with the importation of foreign works.

The Marquess of *Lansdowne* admitted, that the bill was only intended for the benefit of those authors who avowed their works. He was ready, however, to attend to the suggestion of the noble Lord.

Lord *Ellenborough* said, he did not mean to move any amendments, but he suggested the alteration to which he had adverted, as worthy of the consideration of the noble Marquess. The bill he considered to be of great value and importance.

Third Reading postponed.

GOVERNMENT OF INDIA.] Lord *Ellenborough* rose to present a petition which had been placed in his hands a considerable time since. He had not presented it before, because he knew that it was almost impossible to attract the attention of their Lordships to any question connected with the East Indies, however grave and important it might be. The petition which he was about to lay before the House, and which came from the presidency of Bombay, was most respectably and most numerously signed, by Hindoos as well as by Europeans; and its general prayer was, that their Lordships or the Legislature of this country would repeal that part of the last Charter Act which took from the Governments of Bombay and Madras the power of local legislation which those Governments previously possessed. The petitioners complained that certain acts authorized by the Government of Bengal (to which had been transferred the power previously exercised by the Governments of Bombay and Madras), had been most prejudicial to their interests. At the time when the Charter Act was under discussion, he had strongly objected to that part of it which deprived the Bombay and Madras Governments of the power which they, up to that time, exercised, and exercised advantageously. This alteration was made without any reason whatsoever having been assigned for it. For the purpose of carrying a mere speculative theory into effect, the people under the Government of Bombay, who were ten times more numerous than the people of Canada, and the people under the Government of Madras, who were at least thirty times more numerous than the people of Canada, were deprived of the advantages of that legislative rule which the respective Governments had long enjoyed. This alteration could not have been made in consequence of any want of ability, or supposed want of ability, of the individuals who had been placed at the head of those Governments. In fact, Bombay and Madras had for a considerable time been governed by men of much greater eminence than those who had presided in Bengal. There never was, he believed, for instance, a better legislator in India than Sir Thomas Monro. In addition to the reasons assigned by the petitioners for having the old system of Government renewed in these two presidencies, he might also quote the decided opinion of Mr. Elphinstone and Sir Thomas Monro, who were strongly opposed to the alteration that had been introduced. The petitioners were perfectly right in the view which they took of the existing law, which, so far as the interests of Bombay and Madras were concerned, undoubtedly called for repeal. That the existing system worked badly was evident by the case of Hill Coolies, which was lately the subject of a bill introduced by a noble Lord opposite (Lord Glenelg). Early in 1836, the governor of the Mauritius called on the governor-general, in council, at Bengal, to make some provisions and regulations for the protection of the natives of India who might wish to enter into contracts as labourers in the British colonies. Nothing, however, was done until May, 1837; and in November following so ineffective was the law, that the Bengal government was obliged to alter it altogether, and to substitute another regulation. When this latter law was passed, it was found to relate to Calcutta, and not to Madras. The papers which the noble Lord at the head of the Colonial Department had laid on the Table of the House proved what a dreadful mortality had occurred amongst those native labourers who had been sent out to the Mauritius. Every one of those ships carried out British subjects, natives of India, to act as labourers. Many of them had perished. But he was quite convinced, that no such catastrophe would have occurred if the government of Madras had been possessed of those legislative powers of which they had been deprived by the last Charter Act. Efficient steps would, in that case, have been taken to prevent that overcrowding of vessels which had occasioned such fatal consequences.

Lord *Glenelg* said, the provisions of the Act had been fully discussed in the other House of Parliament, on the occasion of its being introduced. He considered its general principle to be a wholesome one, although it was possible, that its advantages might be, to a great extent, defeated by the mode of carrying it into operation, and that injustice might be inflicted in particular cases.

Petition to lie on the table.

LAY TITHE OWNERS.] The Bishop of *Chichester* presented a petition from the churchwardens and inhabitants of the parish of Lindfield, Sussex, which petition had remained in his possession for a year and a half. Thinking, however, that some steps would have been taken to remedy this grievance, he had declined to present it. The case he considered to be one of such great hardship, that he could no longer refrain from pressing it upon their Lordships' attention. The petitioners complained, that the entire business of providing for their parish church, and for all that was connected with their spiritual wants, depended upon the will of a lay rector, who was totally exempt from episcopal jurisdiction. This lay impropriator had not, for two or three years past, made any provision for the discharge of ministerial duties in the parish; and the sick, if visited at all, were visited by clergy from the adjoining parishes. The entire sum expended during that period for spiritual purposes by the individual to whom he referred was only 30*l*., although he was in the receipt of nearly 600*l*. a year from tithes. There were several noble Lords present connected with Sussex, who could bear testimony to the accuracy of this statement. He would suggest, that a clause should be introduced into the Benefices and Pluralities Bill to provide for the relief of these petitioners.

The Duke of *Richmond* felt it to be his duty, as a magistrate and land-owner in the county of Sussex, to corroborate the statement of the right rev. Prelate. This was a parish in the eastern division of Sussex, containing a population of 1,600 souls; and, in consequence of its having a lay rector, the people were not only deprived, frequently, of the advantage of having any church service, but they had not even the benefit of the attendance of clergy upon them during sickness, unless when some neighbouring clergyman attended from motives of charity. The petitioners, he would observe, were highly respectable. He trusted, that the most rev. Prelate, who had the charge of the Benefices and Pluralities Bill, would put in a strong clause upon this subject.

The Archbishop of *Canterbury* said, that there could be no doubt of the great hardship and crying scandal of the case which had been stated by the right rev. Prelate. There could be as little doubt, that the conduct of the impropriator was very much to be condemned. He was quite disposed to favour the very reasonable views which the petitioners entertained.

Petition to lie on the table.

Prisons (Scotland).] The *Lord Chancellor* moved the second reading of the prisons (Scotland) bill, nd stated, that it was rendered necessary by the defective and insufficient accommodation in the prisons of that country.

The Duke of *Hamilton* lamented, that so little time had been given to their Lordships for the consideration of this measure. It was only introduced into the House on Monday, and now, on the third day, they were called upon to assent to the second reading of the bill. It was for their Lordships to consider how far they would be justified in acting in so prompt and inconsiderate a manner.

The Duke of *Richmond* hoped that no long delay would be interposed to passing this bill. Bad indeed as were the prisons in this country, with a very few exceptions, those in Scotland were infinitely worse. The prisons in Glasgow, Edinburgh, and Aberdeen were very fair prisons, but there were many prisons in Scotland, in which males and females were confined together; very few of them had airing yards at all, and there was nothing like classification in any of the gaols. He should suggest to his noble Friend, the noble Duke (Hamilton), that if the bill were now read a second time, they might defer going into Committee till that day week, and that would give the House time to look into the details of the measure. He did not think that the sum required was much—only 30,000*l*.—when it was considered, that the object was to endeavour to reform the prisoners of Scotland. He hoped, therefore, that their Lordships would permit the bill to be read a second time now, and then they could consider its details in Committee at a subsequent period.

The Duke of *Buccleuch* would not oppose the second reading of the bill, but if it were not for the very late period of the session, he should have requested that it might be postponed for a few days. The bill had been some time in the lower House of Parliament, and he did not understand why it had not reached their Lordships earlier. He was extremely sorry that so important a bill should have come on at the very close of the session. If any person was acquainted with Scotland, he must be perfectly aware that the prisons in that country were in a most inefficient and improper state for the reception of criminals, and especially in cases where confinement was not only intended as a punishment for an offence committed, but also to reclaim criminals from their mode of life. Prisoners in Scotland were often confined for common assaults, or offences against the game laws, or the excise laws, and these persons were mixed with the most hardened offenders. As he had already said, he should not oppose the second reading of the bill, but he hoped that sufficient time would be allowed for their Lordships to look narrowly into it, and consider its provisions.

Bill read a second time.

Affirmations in Courts of Law.] Lord *Denman*, before moving the Order of the Day for the third reading of the Affirmations Bill, had several petitions to present in favour of that measure. The first petition was from certain inhabitants of Manchester and its vicinity, who had formerly belonged to the Society of Friends, but who had now seceded from that body, and attached themselves to the Church of England; they still, however, retained their objections to take oaths, as required by the statute, and therefore could not now be received as witnesses in courts of justice. Under these circumstances, they prayed to be relieved from the situation in which, by their decision, they were now placed. The next petition was from 100 merchants and bankers of Manchester and its neighbourhood, men of great respectability and influence, who stated, that they knew a great number of persons, formerly Quakers, who had seceded from that sect; and the petitioners prayed, that for their security, those individuals might be admitted to make affirmation, instead of being, as now, obliged to take oaths, to make them competent witnesses in courts of justice. The noble and learned Lord observed, that, with reference to this subject, he had received a letter from Mr. Foster, a justice of the peace for the counties of Chester and Lancaster, for many years a police magistrate of Manchester, and now chairman of the Salford quarter sessions—a gentleman who, from his experience, was competent to form an opinion on the subject. The letter was also signed by seventeen other magistrates of the county of Lancaster, including the chairman of the visiting justices, and all these gentlemen stated their conviction, that great inconveniences and evils were now produced, by the exclusion of persons who were ready to make affirmations, but objected to take oaths; and they suggested, that the bill which he had laid on the table, gave reasonable and satisfactory security to make it safe to admit those persons to affirm, instead of taking an oath; and they prayed, that for the sake of the public benefit, and the due administration of justice, the evidence of those persons might be received under the arrangements made in the bill. The noble and learned Lord also presented a petition from certain inhabitants of London and the neighbourhood, who stated, that they never had belonged to the Society of Friends, but still they entertained an opinion that oaths were unlawful; that feeling so, and refusing to take the oath when called on to give evidence, they had narrowly escaped being sent to prison, and they urged, that in consequence of their scruples, and the state of the law, persons were deprived of the benefit of their testimony, and that the ends of justice were thus defeated, and though the petitioners felt that some of the provisions of the bill before the House were insufficient, still they prayed that it might be passed into a law.

The Earl of *Wicklow* had understood the bill to proceed on the ground of the objections to take oaths made by persons who formerly belonged to the society called Quakers. It appeared, however, from the last petition, that other persons claimed the same exception. To this he (the Earl of Wicklow) could not consent, though he would abstain from voting against this bill, if the noble and learned Lord would consent to confine its operation solely to those who had been Quakers but had now seceded from that persuasion.

Lord *Denman*, in moving the Order of the Day for the third reading of the bill, said, that he should be sorry to make the exclusion to which the noble Earl adverted, for one of the gentlemen on whose behalf he had moved in this matter, and to whom he had often before referred, never had been a Quaker, and yet had the same objection as was entertained by that body to the taking of oaths. That gentleman had declined a situation of 800*l.* per annum, in consequence of his objection even to administer an oath; and yet if that gentleman were called as a witness before him (Lord Denman in the Court of Queen's Bench, to-morrow, he should have no option but to send that gentleman to prison for refusing to give evidence on oath. Sooner, however, than that the bill should not pass, he would consent to take it with the restriction pointed out by the noble Earl opposite.

Lord *Holland* said, he felt bound to remark, that Mr. Foster, whose recommendation had been alluded to by his noble and learned Friend was one of the most useful magistrates in Manchester, and that on the authority of that gentleman he could state, that the feeling in favour of this measure was not confined to those who sought the exemption for themselves. The matter was of general public importance, for the hardship of the present law was not so much on those who refused now to take oaths, as upon the persons who were thus deprived of the benefit of their evidence. Under this feeling there was in Manchester a very general desire for this bill.

The Earl of *Wicklow* said, he found that his amendment could not in form be proposed until the bill had been read a third time. Now, he must object to the third reading, unless he had an assurance from the noble and learned Lord, that he would afterwards agree to his (the Earl of Wicklow's) amendment, to confine the bill to those persons who had been Quakers.

Lord *Ashburton*, was understood to say, that if relief should be given at all, this bill was wholly insufficient. He, however, objected entirely to the measure. He had also received communications on this subject, and he was still of opinion that the general evidence in English Courts of Justice, would be greatly impaired when the great mass of the community found, that evidence was not given under the solemn sanction of an oath. If, however, anything was to be done by legislation on this matter, he should be inclined to confine it, as suggested by the noble Earl behind him (the Earl of Wicklow) to persons who had belonged to the society of Quakers; at the same time, he could not help thinking, that by this plan the lives and properties of the people would be less carefully guarded under so loose a mode of admitting evidence, than they were at present. If the House went to a division, he should vote against the third reading of the bill.

The Marquess of *Bute* looked upon this bill as being a judicial and not a political measure—a measure which, as he understood, was considered necessary by the noble and learned Lord, and his learned brethren, the judges, who from their experience found, that considerable interruption occurred to the ends of justice from the impossibility of obtaining the evidence of many worthy and excellent men who had conscientious objections to take an oath. It must be irksome and abhorrent to the learned judges to be compelled to punish individuals so circumstanced, and feeling, that this was a judicial measure important to the ends of justice, he felt it his duty to vote in favour of the bill of the noble and learned Lord.

Lord *Ellenborough* observed, that he had altered the bill to the form in which it would stand if the amendment of his noble Friend (the Earl of Wicklow) was agreed to, and he found, that in that case it would be necessary to strike out one half of the preamble and the same quantity of the enactments, which was scarcely a fit way to deal with a bill on its third reading. The better course would be, to throw out this bill, and then the noble and learned Lord might bring in a fresh bill embodying the principle contended for by his noble Friend.

Lord *Denman* said, it was true, that the bill was a judicial measure, for the purpose of effecting the admission of the truth in courts of justice, but the noble Marquess had misunderstood him (Lord Denman) in supposing, that he had the authority of the judges to state, that it was generally their opinion that the bill should pass into a law. The bill, however, did rest upon some authority, for one of his most respected brethren, Mr. Baron Alderson, had, at an early period of this Session, drawn up a bill on this subject, which fell through because it had been thought more convenient to annex its provisions to another measure, which had been rendered necessary by a decision of the Irish judges with respect to the admission as witnesses of Presbyterians without an oath. By the existing law evidence was excluded upon which life and limb, and property to a vast extent, might depend. As long as these persons were Quakers they had the protection of the law, but they were deprived of that on becoming members of the Church of England. Should that, in justice, be so? The only objection to the bill was that mentioned by the noble Baron opposite (Lord Ashburton), viz., that the general effect of evidence in courts of justice would be diminished, because under the bill certain individuals would be permitted to say, "I do not think it lawful to take an oath, and I request to be permitted to make an affirmation." The observation would be quite as good with reference to Quakers, who were examined every day without an oath. Did a Quaker have less respect for the truth because he gave evidence on affirmation? or would a man who made an oath think he was less bound to speak the truth because a Quaker was not sworn? The evil which he had brought under the notice of their Lordships was one of great magnitude; he had suggested a remedy, and had persevered to the last in attempting to get that remedy applied; and though the result might be unfavourable, he felt it his duty to take their Lordships opinion upon the question. If defeated now, he should certainly bring forward the subject again, at an early period of the ensuing session.

Their Lordships divided. Content 16; Not-content 32: Majority 16.

Bill lost.

PRISONS IN THE WEST INDIES.] Lord *Glenelg* moved the second reading of the West Indies Prisons Bill.

Lord *Ellenborough* had looked over the bill, and thought it was a very proper one. He would take that opportunity of asking the noble Baron, whether he had received answers to the sixteen questions, which, on the 17th of November last, he put in a circular letter to the governors of the several colonies on important matters? He thought it was highly necessary to make provisions with a view to the coming period of the universal emancipation of the slaves. This bill related only to one point; and he wished to ask the noble Baron what measure he intended with respect to maintaining, or increasing, or diminishing, the present number of special magistrates. He was of opinion that it would not be consistent with the approaching state of things to diminish the number; on the contrary, he thought that immediately on the commencement of the period of universal freedom an additional number of magistrates should be appointed; for the state of things would not be that of absolute safety, far from it perhaps; but at all events it would be a period requiring the greatest watchfulness. There was then another point of no small importance; were there to be any and what reforms or alterations in the administration of justice? There were white jurists, white grand jurists, white magistrates, and white judges, being all persons connected with the system of slavery, and more or less prejudiced in favour of the planters. He believed, among the judges, that there was but one who was not so prejudiced. There must be prejudices between white and black, for, although the distinction between master and slave might be destroyed, the other distinction could not be destroyed, it was inherent in the nature of things; and he feared that great evils might arise from it hereafter. There was another question connected with this subject, and it was one of the greatest importance. What was to be the condition of the colonial legislature hereafter? A short period would make the emancipated negroes electors, and ultimately, unless an alteration was made in the law, they would preponderate, and become also the majority of petty jurors. He did not say, that by legislation this ought to be prevented, but it was a state of things that ought to be looked forward to as one that would require legislation. He was far from thinking that the difficulties of the noble Baron were at an end; he thought they were only commencing. He could not but express his surprise that it was not until the 17th of November last year the noble Baron asked for information on points which were of the greatest importance.

Lord *Glenelg* said, that answers to the questions put in the circular letter alluded to by the noble Baron had been received from several of the colonies. The special magistrates, would, of course, cease to be so on the expiration of the act under which they were appointed, but it was intended to continue them under another name, and some other system which would enable them with the same watchfulness to superintend the state of things. He was not quite clear that the same number of magistrates would be required, but he could give no positive opinion on that point at present. He quite agreed with the noble Baron that the persons, whose position in society would be changed, would require very vigilant watchfulness. He knew also that prejudices arising from the difference of colour would exist, and he feared that it would be some time before they would be eradicated; but he did not think it would be quite fair to conclude that they would be carried to the extremity that the noble Lord suspected they would, or that better principles and feelings would not operate in the new state of society. With respect to the future administration of justice, he acknowledged that it was a very important subject; but it would become a very difficult one, if they laid it down as a problem that there would be no persons in the colonies on whom they could rely for assistance in properly carrying it into effect. He did not deny that the difficulties of the Government might not be decreased by the change in the state of society in the West Indies, but he was of opinion that there were elements of advantage in that change which would counterbalance any new difficulties that might arise.

Lord *Ellenborough* said, the noble Baron looked to apprenticeship terminating in 1840; but the time had come earlier, and from all the accounts which had been received, the negroes would within a fortnight be free. There, therefore, could not safely be any delay in taking the necessary legislative steps.

Lord *Holland* said, this subject was one of great delicacy and of much difficulty, and it was impossible that they could discuss the measures which might be proposed till some communication was made to the House by the Government. It would be time enough to discuss the policy of those measures when they were regularly before the House.

Bill read a second time.

HOUSE OF COMMONS,

Thursday, July 19, 1838.

Minutes.] Bills. Read a first time:—General Turnpike Acts (Ireland) Continuance.—Read a second time:—Grand Juries Presentment (Ireland).—Read a third time:—Trading Companies.

Petitions presented. By Mr. G. Langton, from Bath, in favour of the Grant to Maynooth.—By Mr. Wallace, from the Glasgow, Greenock, and Paisley Railway Company, against the Mails on Railroads Bill, and from the Glasgow and Greenock Institution, against the encouragement of Idolatrous Worship in India, and by Mr. Sheppard, from Poole, to the same effect.—By Viscount Sandon, from Liverpool, against the Grant to Maynooth.—By Mr. A. Chapman, from Whitby, against Idolatrous Worship in India.—By Lord Worsley, from Lincoln, in favour of a cheap rate of Postage.—By Mr. H. Grattan, from Spirit Dealers of Arklow and Rathdrum, praying for the same advantages as their fellow Tradesmen.

Church Vestries.] Dr. Nicholl moved that the House resolve itself into a Committee on the Church Vestries Bill.

Mr. Hume moved, that the House would resolve itself itself into a Committee that day three months.

Mr. *Hodges* seconded the amendment. In many parishes the Bill would cause great expense, and the whole measure was as objectionable as unnecessary.

Mr. *Warburton* said, notice should have been given of a bill, the effect of which would be in so many cases to saddle the country with great additional expense. If the bill were made permissive, it might have a beneficial effect.

Mr. *O'Connell* objected to the Roman Catholics being called upon to pay new taxes. He hoped, therefore, the hon. and learned Member would exempt Ireland from the operation of the bill, as he had already done Scotland. It would introduce a new church rate into that country.

Mr. *J. Grattan* also hoped the hon. Member would exclude Ireland.

Colonel *Perceval* hoped the hon. and learned Member would include Ireland, as he was convinced that such a bill was much more necessary for that country than England.

Lord *Worsley* would not oppose going into Committee; but it was his intention to persuade the House, if he could, to adopt certain clauses, which it was his intention to propose.

Dr. *Nicholl* said, the hon. and learned Gentleman asked him to except Ireland from this bill, saying it would introduce a new Church-rate for Ireland. He denied this. If there were any part of the empire which ought to be submitted to the operation of the bill, it was Ireland. He could not consent to render this bill permissive, and thought he was bound to press the question without further delay.

Sir *R. H. Inglis* trusted his hon. and learned Friend would not withdraw his motion. Every promise of opposition to this bill had been amply redeemed, for it had been opposed at every stage.

The House divided on the original motion:—Ayes 76; Noes 78: Majority 2.

List of the Ayes.

Acland, T. D.
Arbuthnot, H.
Ashley, Lord
Baillie, Col.
Baker, E.
Baring, H. B.
Baring, hon. W. B.
Barrington, Lord
Blackstone, W. S.
Blair, J.
Boldero, H. G.
Bradshaw, J.
Bramston, T. W.
Brownrigg, S.
Bruges, W. H. L.
Chute, W. L. W.
Darby, G.
De Horsey, S. H.
Dick, Q.
Douglas, Sir C. E.

Eastnor, Lord
Eaton, R. J.
Egerton, W. T.
Estcourt, T.
Fector, J. M.
Filmer, Sir E.
Follett, Sir W.
Freshfield, J. W.
Gibson, T.
Gladstone, W. E.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Greene, T.
Grimsditch, T.
Grimston, Lord
Herbert, hon. S.
Hillsborough, Earl of
Hodgson, R.
Hope, hon. C.
Hope, G. W.
Jermyn, Earl
Jones, T.
Knight, H. G.
Lascelles, W. S.
Lefroy, right hon. T.
Lowther, J. H.
Lucas, E.
Lygon, General
Mackenzie, T.
Mackinnon, W.
Mahon, Lord
Palmer, G.
Parker, M.
Peel, Sir R.
Perceval, Colonel
Perceval, G. J.
Praed, W. M.
Praed, W. T.
Richards, R.
Rose, Sir G.
Round, J.
Rushbrooke, R.
Sandon, Lord
Sheppard, T.
Sinclair, Sir G.
Somerset, Lord G.
Stanley, Lord
Sturt, H. C.
Sugden, Sir E.
Teignmouth, Lord
Trench, Sir F.
Vere, Sir C. B.
Verner, Colonel
Wall, C. B.
Welby, G. E.

TELLERS.
Inglis, Sir R. H.
Nicholl, J.

List of the Noes.

Anson, hon. Colonel
Archbold, R.
Barnard, E. G.
Bernal, R.
Briscoe, J. I.
Brodie, W. B.
Brotherton, J.
Bryan, G.
Buller, E.
Byng, E.
Cave, R. O.
Codrington, Admiral
Collins, W.
Crawley, S.
Dashwood, G. H.
Denison, W. J.
Duckworth, S.
Fielden, J.
Ferguson, R.
French, F.
Gillon, W. D.
Grattan, J.
Grey, Sir G.
Grote, G.
Harvey, D. W.
Hastie, A.
Hawes, B.
Hayter, W.
Hector, C. J.
Hill, Lord A. M. C.
Howick, Lord
Hutton, R.
James, W.
Kinnaird, A. F.
Labouchere, H.
Langdale, hon. C.
Langton, W. C.
Lushington, C.
Lynch, A. H.
Macnamara, W.
Mactaggart, J.
Maule, hon. F.
Molesworth, Sir W.
Morpeth, Lord
Morris, D.
O'Connell, D.
O'Connell, M.
Paget, F.
Parker, J.
Pechell, Captain
Philips, M.
Philips, G. R.
Phillpotts, J.
Ponsonby, hon. G.
Power, J.
Pryme, G.
Russell, Lord J.
Salwey, Colonel
Sanford, E. A.
Seymour, Lord
Smith, B.
Somerville, Sir W. M.
Steuart, R.
Stewart, J.
Strutt, E.
Style, Sir G.
Thomson, C. P.
Thornely, T.
Vigors, N. A.
Villiers, C. P.
Wallace, R
Warburton, H.
Ward, H.
White, A.
Wilmot, Sir J. E.
Worsley, Lord
Yates, J. A.

TELLERS.
Hume, J.
Hodges, T. L.

Dr. *Nicholl* said, considering the numbers on the division, and seeinghow the influence of Government had been used against it, he did not despair of seeing some such bill carried in the ensuing Session.

Tithes (Ireland), Issue of Exchequer Bills.] On the motion of Lord John Russell, the House resolved itself into a Committee upon the Tithes (Ireland) Issue of Exchequer Bills.

In the Committee the noble Lord moved,

> "That Exchequer Bills, to an amount not exceeding the residue of the sum of one million, remaining unappropriated, under an Act of the 3rd and 4th of King William the 4th, cap. 100, and under an Act of the 6th and 7th of his said Majesty, cap. 108, be issued and applied, together with the instalments paid, or which may be paid, under the first-mentioned Act, to the relief of the owners of Compositions for Tithes in Ireland, for the years 1836 and 1837, and that the Commissioners of her Majesty's Treasury be authorised to remit such instalments in certain cases."

Mr. *Hume* rose to move, that the grant to the Church in Ireland would be highly unjust to the people of England and Scotland, and subversive of those principles on which good government and equal justice could alone be maintained. In 1833, when a loan was proposed to the Irish clergy, under the pretence of procuring peace for Ireland; he opposed that proposition, because he objected to the principle of a price being paid, for the settlement of dissentions in that country, being persuaded that the result would be the contrary. It was said, then, that the burden of tithes being transferred from the occupying tenant to the landlord, the peaceable and quiet payment of the money would be procured. But, after five years' experience, they were in no better condition for securing peace in Ireland than before. In 1835, it was proposed to reduce the Irish church, by abolishing the fifty sinecure benefices, and reducing overpaid livings; and when it was understood that, by this measure, the Church Establishment in Ireland would be rendered more in unison with the feelings of the people of that country, he did not object to the sacrifice then recommended, in hopes that peace would be thereby secured. But the perversity of the friends of the Irish Church lost that bill. In his opinion, the House was violating the best principles of good government, and was telling the people of Ireland that if they would only resist the law for one or two years, they would have a premium for doing so; but that those who had yielded to the law, and paid their tithes, were to be punished. Was that, he would ask, a sound state of things, and how could those who proposed this grant reconcile their feelings to it? In August, 1833, the right hon. Baronet, the Member for Tamworth, when he moved that any loan to the people of Ireland should not be taken as a grant, was not prepared to state that it should be so, although he agreed to the loan, observing, that a grant would be a premium for the resistance of the law. It was for the right hon. Baronet to settle between the country and himself, if he adopted a different course in the present instance. Upon that occasion the hon. Baronet, (the Member for Oxford,) Sir R. Inglis, agreed with the right hon. Baronet, (the Member for Tamworth), that a premium would be held out for the violation of the law by making a grant.

The right hon. Baronet, the Member for Tamworth, used the following words:—

"There is another party whose interests must be considered in the matter, besides the clergy of Ireland; I mean the people of England, who have already paid their own tithes. This sum ought to be paid by the people of Ireland; in what proportion by the landlord and tenant, I will not now stop to discuss; but if this legal charge is to be transferred to the people of England, who have already obeyed the law, it will certainly be holding out a premium to the disobedience of the law." "This principle of escaping from temporary difficulties by votes of money from the public purse, is one which I foresee will involve the country in inextricable confusion."

And what said the hon. Baronet, the Member for the University of Oxford? Why, he used these words:

"I agree with the right hon. Member for Tamworth, in thinking that the principle of the proposed measure is liable to great objections. We are actually giving a premium to disobedience of the law, and the amount of that reward is proportionate to the success of the resistance. By such a course, do we not hold out an inducement to people to violate the law? Let us not deceive ourselves in this instance, as in every other: the demand and the supply will regulate each other. In 1837 and 1838, it will be found, that the new machinery will not work so well as was expected, and another measure will be brought in to relieve the landlord as well as the tenant from the payment of the tithes. By the proposition now submitted, it is proclaimed, that those who have baffled the law for one year shall receive a premium of ten per cent., whilst those who have succeeded in setting it at defiance for two years, shall obtain one of twenty-five per cent. If this is not the moral of the measure, I know not what is."

He put it to the right hon. Baronet, the Member for Tamworth, and the hon. Baronet near him, Sir R. Inglis, whether they could consistently support the present resolution, and adhere to the opinions expressed by them in 1833? He did not blame his hon. and learned Friend, the Member for Dublin (Mr. O'Connell), for the hon. and learned Gentleman held the same language now that he held in 1833. If any advance of money would procure peace for Ireland, he, for one, was prepared to make any advance. But he thought such a course would be making the matter worse, and after the experience of five years, he was astonished that any body could expect a different result. They had already endeavoured to settle the question of tithes in Ireland three different times, and thrice had the bill sent up by that House to the other been rejected. At first they sent up a bill without an appropriation clause, and that was rejected, although he would venture to say, that those who then rejected that bill, had since regretted their so doing. They then sent up a bill with the appropriation clause, and that also had been rejected. He was convinced, that it was only by a better and fairer appropriation of the revenues of the Church of Ireland, that the peace of that country could be secured for any length of time; and as such an appropriation was wanting in this bill, he was quite sure, that the grant of a million would not effect the object they had in view. It was not the payment of tithes, but their appropriation, that had produced so much dissatisfaction in Ireland; and, as the cause of dissatisfaction was not removed, Ireland would be left by this bill precisely in the same situation which she was in at present. Agitation would, after a time, be again general in Ireland, and would produce the same effect. As this grant, therefore, would do no lasting good for Ireland, and as it inflicted a great and present injustice upon the people of England and Scotland, he felt bound to oppose it to the utmost of his power. He would therefore, move, as an amendment, the following resolution:—

"That the proposed grant of 640,000*l*., which had been advanced from the Treasury of the United Kingdom as a loan to the clergy of the Established Church and the lay proprietors of tithes in Ireland, also the additional grants of 100,000*l*., and of 260,000*l*., now proposed to be made for the Church of Ireland, making, in the whole, one million sterling, will be highly unjust to the people of England and Scotland, and subversive of those principles on which good government and equal justice can alone be maintained."

Mr. *Ward* could not allow the discussion to close abruptly upon a question of such vital importance. The House had to choose between two distinct propositions. The first was the plan proposed by the Members of her Majesty's Government, in conjunction with the Members of her Majesty's opposition, for both must take their share of the responsibility, for the settlement of the question, which had been so frequently, and fruitlessly, discussed in Parliament during the last five years. The second was, the amendment proposed by his hon. Friend, the Member for Kilkenny, which declared that plan to be based on the principles incompatible with good government and justice. To the Government plan, so developed in the resolution before them, and the additional clauses put into their hands that morning, he objected entirely. It seemed to him to have every fault that a plan could have. Even the terms of it were objectionable, for the resolution talked of the 260,000*l*. which they were called upon to vote that evening as the unappropriated residue of the million advanced in 1833, whereas he denied that any part of that million had been appropriated. It was an advance to the clergy, a loan, not a gift, and the re-payment, as a matter of right, had never been abandoned. But it was upon much more serious grounds that he objected to the present proposal. First, it was inconsistent with expectations long held out, and pledges solemnly given; secondly, it was certain to prove delusive and ineffectual in its results. He should say little on the score of inconsistency. His opinions were well known. He felt that nothing had ever so shaken the public confidence in public men as the singular and inexplicable changes that had occurred on his side of the House upon this Irish tithe question. It was not enough for a Minister to say, that his opinions remained unaltered. There must be some conformity between private conviction and public acts to inspire confidence or command respect. The new principle—the "*video meliora proboque—deteriora sequor*" principle—would do neither. But he would abandon this part of the subject. It was painful to himself, and unpalatable to others. What was the plan actually before them? Some Gentlemen were surprised at being called upon to concur in the settlement of the tithe arrears by a grant of public money. He was not at all so. He knew this to be inevitable; and then he was blamed for having brought before the House an abstract principle in the instruction to the Committee which he had moved. He was well aware that that abstract principle would assume a practical shape, if his motion were rejected, not at all gratifying to many who voted against him. They now saw the consequences of what they had done, for, instead of an abstract principle; they were called upon for a grant of money to the amount of one million. The fact was, that there were but two modes of settling the tithe question—the one was to adhere to the appropriation principle, the other to invert it. They must either apply Church property to public purposes, and so conciliate the majority of the people of Ireland, who neither belonged to, nor benefited by the establishment, or they must apply public property to Church purposes, and thus, by dint of gilding the pill, induce them to swallow it. There was no use in deceiving themselves. There must be a large reduction in the Irish Church, or there must be large subsidies. The present grant was but the beginning, the first page in a new chapter of Irish estimates, to which their attention would be called periodically. What they did now, they must do again in two or three years at the utmost. They had established the precedent. The arrears of tithes had been twice paid in Ireland already, or would be twice paid, if the present vote were carried, yet, they were as far from a settlement as ever. The 640,000*l*. advanced in 1833, had settled nothing. The 260,000*l*. to be advanced now would settle nothing. The Irish Members themselves told them so. They did not attempt to mislead the House. There was not a man amongst them who would get up and say, that any settlement of the tithe question could be bought by any profusion. They went, avowedly, upon a different principle. They said, and very fairly, "if you insist upon keeping up amongst us, as a national Church, a Church which is not our Church, you shall pay for it." This was the language of the hon. and learned Member for Dublin. He told the House, the other night—"The plan is not my plan, but your plan; try it by all means—it is an excellent plan for Ireland, but I am not responsible for the issue." This was perfectly fair and manly; but it was not a reason for English and Scotch Members to assent to the plan proposed to them. The fact was, there could be no settlement without a reform, and there was no reform, either present or prospective, given by the present measure; yet it was upon the strength of the reforms to be made in the Church, and of the new appropriation, that the House was called upon in 1835 to do that which it was now asked to assent to without any equivalent. Lord Morpeth expressly stated this:—"But it has been contended by many who sit upon the same side of the House as myself that they were not prepared to consent to so large a free gift on the part of this country to relieve the embarrassments of the Irish clergy, or to prop up the tottering condition of the Irish Church, without receiving as an equivalent such an alteration in the future appropriation of its disposable funds as might be more consistent with the justice of the case—more congenial with the feelings of the country—more conducive to the real object of any settlement—the maintenance of civil and religious peace. Such an altered appropriation we propose to engraft upon our bill; and, on the strength of this, we now come forward and appeal to the generosity of the representatives of the empire at large for confirming this preliminary grant." But what was the course the Government was now pursuing? Without any change or improvement in the Church it proposed an advance of 260,000*l*., with which an account was to be opened with the Bank of England, bearing the ominous title of Irish tithe arrears. Unless the system were changed, the account when once opened would be closed only on the day of judgment. The Treasury was then to receive memorials, and to investigate them. Defaulters were to be summoned by proclamation to make good their arrears within one month, and subject to a deduction of fifteen per cent, and in case of refusal the most summary process was to be resorted to against them. By this plan the Government took upon itself the odious office of tithe-proctor, while, on the other side, it was to huckster with the clergy for a miserable per centage upon their arrears, in the name of economy and the public interest. Now, he denounced this whole arrangement. He had warred against the system, not against the individual. If the system was good they should uphold it; if bad, change it; but not sacrifice the individual to a system which, in spite of experience, they chose to perpetuate. This had been their course in 1835. Why change it? He was told, that something must be done—settled. No man more desired a settlement of the Irish questions than himself. It would be worth a million to get rid of them, for they stood in the way of all other legislation. But he looked to an honourable, permanent, and satisfactory settlement; and no settlement could be permanent or satisfactory that was not honourable. Should they have such a settlement this Session? The Municipal Bill was, he supposed, included in it. But in what shape would that bill return to them? Were they to accept it with Lord Lyndhurst's amendments, which would simply substitute one oligarchy for that which they were about to do away with? And if the Municipal Bill were rejected, as it ought to be, why should they keep the Tithe Bill? If not both, why have either? The only inducement to assent to a bad Tithe Bill was at an end from the moment they lost the other. He hoped, therefore, that Members would pause before they committed themselves by the vote of that evening. On what possible plea could Scotch Members, who refused the smallest additional endowment to their own Church, however meritorious, lavish 300,000*l*. on an establishment the existence of which they had declared three years ago to be incompatible with the peace of the empire? How could English Members make such a sacrifice of the expense of their constituents, when their own leader told them that he was persuaded the sacrifice would be ineffectual? It was not the Secretary of the Home Department who was misleading his followers: it was his followers who were misleading him, by not expressing openly their opinions. The noble Lord had pleaded the alleged sense of the House as the excuse for his present motion. He hoped that the vote of that night would convince him that there was but one desire on the liberal side at all events, and that was, to prevent the government from proceeding any further with an experiment which must prove at once costly, useless, and, he feared, discreditable.

Sir *R. Peel* said—Sir, I conceive it is hardly necessary for me to go at any length into this subject, particularly as it has already been fully discussed, and as we have already decided a part of the proposition now advocated by the hon. Gentleman. By a large majority of the House of Commons we have declared that some attempt should be made to settle the Irish tithe question in a way that would not involve the appropriation clause. The hon. Gentleman moved a resolution in opposition to that proposition, but that resolution the House of Commons thought fit to reject by a large majority. I will not go over that ground again, but I think I have a right to assume—notwithstanding the course which the hon. Gentleman has taken, and taken against the wishes of hon. Members on his own side of the House, who are friendly to appropriation as an abstract principle—that it is the opinion of the great majority of this House, seeing the impossibility of carrying the principle of appropriation, that an adjustment of the Irish tithe question ought to be effected without the appropriation clause. So far, then, the noble Lord had the sanction of hon. Members on both sides of the House for endeavouring to bring about some satisfactory arrangement without reference to the principle of appropriation. The hon. Member for Kilkenny commenced his speech by charging other hon. Members of this House with inconsistency; and I confess, Sir, I was not a little surprised when he mentioned the name of the Member for Tamworth as one of those whom he considered as having acted inconsistently. I was, Sir, very much surprised when I heard the hon. Gentleman allude to me, because I think the course which I took in this instance was one which was perfectly consistent. Sir, I think that a public man is not to be charged with inconsistency because he may in one Session find it necessary to depart from that which he may have done in another. It is no doubt right that, as regards all great principles, consistency in public men is highly desirable; but if the hon. Gentleman means that I have been inconsistent with respect to the Irish tithe question—that I have adhered to one course in one Session and adopted a different course in another, where policy, and not principle, was involved, all I can say is, that when I look back to the authority on which the charge against me is preferred, it turns out to be wholly without foundation in fact. Sir, on referring back to the circumstances to which the hon. Member for Kilkenny has alluded, I find, that on the 5th of August, 1833, a proposal was made to the House for the grant of a million of money to the Irish clergy. Well, Sir, what then took place? Why, I find that the House divided, and from what the hon. Gentleman said, I expected to find my name in the same list with that of the hon. Gentleman, but what is the fact? why that the hon. Gentleman voted against the grant of the million, and that I voted in favour of the advance. [Mr. *Hume:* But you spoke against it.] That is the hon. Gentleman's own conclusion. The question was, that the sum of a million should be advanced for the relief of the Irish clergy, and I voted in support of the grant, and not against it, as appears by the lists of the division. The numbers were — "Ayes 87," and "Noes 54," and I find the name of the Member for Kilkenny among the "Noes," and the name of the Member for Tamworth among the "Ayes," so that according to this evidence I voted for the advance, and therefore cannot now be inconsistent in the course which I have felt it my duty to pursue. It is perfectly true, Sir, I did say at the time, that I had no expectation that any portion of this money would be repaid, and I think if I am not very much mistaken, I also said, that if the advances were to be paid back at all, the Irish people were the parties by whom the payments ought to be made. This, Sir, is the line of conduct which I then adopted, and I will now ask the hon. Member for Kilkenny whether he will tell me that there is the slightest inconsistency between the course I then pursued, and the proposition which I made to this House the other night? The question, however, now is, how are we to deal with the arrears of tithes which have become due? Sir, I assume that the House of Commons are anxious for an adjustment of the tithe question without the appropriation principle, and that we are about to make a change by the conversion of tithes into a rent-charge, which will place the clergy and the lay impropriators on the same footing—which will transfer the demand to the landlord, instead of leaving it, as at present, a charge upon the occupying tenant. I think, Sir, we can make that arrangement prospective, and, providing for the necessary exceptions, it is my belief that the transfer of the liability from the occupying tenant to the landlord will give a reasonable security for the future tranquillity of Ireland. We are bound to meet the question of arrears fairly, and, as I said the other night, I can make a clear distinction between those arrears which are covered by the 640,000*l.*, and those which are not included in that sum. Now, Sir, I do say that it would be utterly unjust to attempt to recover any part of the arrears covered by the 640,000*l.* after the course you have taken—after bringing in Acts of Parliament, as you have done, remitting altogether the liability of the occupying tenants, as regards those arrears. But what will the consequence of such a course be? Why, that you will enable the parties to enforce the payment of all arrears even previous to 1833. You sanctioned the remission of the arrears in respect of which advances had been made, and yet you now take a course which will compel the clergy and lay impropriators, in order to repay what they have received, to recover how they can, arrears due so long back as five years since. How, I ask you, in common consistency, can you place them in such a position? I say, you cannot. Recollect, that it was with your connivance, if not your sanction, and a feeling that you never meant to call upon them for the instalments, that induced them to abandon their legal remedy with respect to those arrears, and how, then, let me ask you, is it possible for you now to call on them to pay back the money they have received, unless you give them the aid of the military power to enforce the law? Do you think such a course would be advisable, or that if you were to take such a step, you would not incur the risk of a revolution? One thing is certain, and that is, that you would have the whole of the moral sense of the people, not only of Ireland, but of this country, against you. Sir, I, for my own part, feel confident that Parliament never will impose upon the Treasury the ungenerous and unjust task of enforcing the repayment of the money which has been advanced under the Million Act. It is not clear, that as regards the last instalments you can have no remedy. You may insist upon the payment of the quinquennial instalments—you may call upon the clergy to pay back the whole of the advances made to them since 1833—but if you do, what will they say—why, the answer of the clergy will be, "We cannot pay you." True, you may issue a distress against them—you may sequester their livings—but if you were to attempt such a course, depend upon it, you would find so strong a repugnance, on the part of the public to such a proceeding, as would render it impossible for you to execute your own purpose. With respect, therefore, to these arrears having sanctioned the remission, you have no right whatever to assert that they have not been verbally released, and that, too, by your own act. Sir, I now come to the other arrears. With respect to them there are immense and enormous difficulties in the way of any settlement which will be satisfactory to each side of the House, and it is no reflection on any party if they find it all but impossible to solve those difficulties. On the one hand, you leave the arrears in existence, but can you for a single moment doubt, that the recovery of them will be impossible, after you have converted tithes into a rent charge, and that any such attempt must seriously endanger the success of the new system which you are about to adopt. On the other hand, it is contended, that if we do away with the whole of the arrears, we shall be acting unjustly—that we shall be giving a reward to those who resisted the law, at the expense of those who obeyed it; and with good reason it is said, that by such a course we should be telling those parties who had refused obedience to the law that they ought to persevere, because the effect of it would be to prove to them that their resistance has been successful. This is the state of the case, and these are the difficulties which surround it. Sir, there can be no question that the Act of Parliament which has been passed, has been the means of preventing the Irish clergy from receiving that which was their legal right, and it is, therefore, impossible not to feel that the principle is one which is fraught with the utmost danger. I made my proposition in the hope that it would solve the difficulty in which the subject is involved. What I proposed was, that we should advance a definite sum—that if you would give me, say 360,000*l.* the difference between the 640,000*l.* and the million, I entertained a hope of being able to bring about a successful adjustment of the tithe question. I proposed that this sum should be placed at the disposal, and under the control of a certain number of unpaid commissioners, and that they should be empowered to negociate with the tithe-owners for the purchase of the whole of the arrears. Of course it would be optional with them to accept the amount offered or not, but if they did accept it, then I proposed, that the Government should succeed to the right of the tithe-owners, and stand in their place. I did not propose, however, to remit any portion of the arrears, but on the contrary, my intention was, that the Government should retain the power in the case of a refractory and contumacious man—of one who, being able, yet refused to pay his tithes; in all such cases, I say, I intended that the Government should retain the power of enforcing whatever arrears might be due; and the great advantage of such an arrangement was, that the party who defied the law would be taught to obey and respect it when he found that resistance to it would be useless. I did not purpose, that any grant of public money should be made, but that the Government should become the purchasers of the arrears at a given value, and then recover as much of them as could consistently be called for. I believe, that my plan would have admitted of an important qualification. I proposed to deal only with two years' arrears. What I intended was, that Government should offer to purchase two years' arrears of tithes, that those who accepted that offer should not enforce the arrears due to them for the previous years, but that those who declined should be left to their legal remedy. I now think it would be better to deal with the subject by an arrangement for the whole of the four years, and not to exclude those who might obtain the offer for the two first years from the benefit to which they would be clearly entitled. Suppose, then, we were to offer for the purchase of the arrears of the first year 40*l.*, the second 50*l.*, the third 60*l.*, and for the fourth 70*l.*, I am obliged to adopt arbitrary sums for the present—I do not know that that would not be better than making an arrangement extending over the whole period, because, in some cases, there might be more than three years' arrears due, and in others only one. Where, however, the parties rejected this offer, I would leave them to their legal remedy. Sir, the plan of her Majesty's Government proceeds upon a very different principle. It is this—that a sum of 260,000*l.*, to which is to be added any sum that may be recovered from the landlord—the amount is uncertain—shall be appropriated in liquidation of the arrears, but then only of those arrears which have accrued due during the two last years. My plan referred to the arrears due by the occupying tenant; but the plan of the noble Lord is restricted to those for which the landlords are liable. In the first place, Sir, I do not know—I can form no opinion whatever as to what the amount of the arrears will be which the noble Lord is likely to receive—all I can rely on is, the 260,000*l.*; for with respect to the rest, it is altogether doubtful. It may be bad to give the clergy vested interests, but still I should rather vote 360,000*l.*, to be applied in the manner I have pointed out, leaving it to the Treasury to recover what might seem to them to be properly due, than adopt the proposition of the noble Lord. If, I say, the noble Lord will give this 260,000*l.*, and that the ecclesiastical commissioners will pay over the other 100,000*l.*, so that both sums can be placed at the disposal of the commissioners to whom I have alluded, to be applied as the optional principle, I have no doubt whatever that this question will be set at rest; that my whole plan will work well; and that the whole of the tithe-owners will accept any offer that may be made to them for the purchase of the arrears. If, however, the noble Lord will not assent to my plan, because he calculates that the 260,000*l.* will be sufficient to liquidate the arrears of the last two years, and insure the remission of the whole of the arrears due, and which have not been enforced, owing to an act of Parliament, all I can say is, that I shall vote for his proposition; but in doing so, I have thought it only fair to intimate to him the objections which I entertain against his scheme. We know, in fact, nothing about what amount of arrears can be recovered, and what cannot; and, therefore, when I am told, that a certain sum is to be advanced, and that, whether the parties accept it or not, their claims are to cease, and they are to be deprived of their legal remedy, I feel I own great difficulty in assenting to such a proposal, and the more especially without knowing the extent of the sacrifice which they are to be called on to make. It is not possible, I should think, Sir, that this House will ever pass an Act of Parliament depriving parties of a legal remedy without a fair equivalent in the shape of compensation. That would, indeed, be a most dangerous principle to lay down; and yet it is neither more nor less than the proposition which the noble Lord has made; for though he has provided for the two last years, he means that no advance shall be made in respect of the first two years. The parties, therefore, to whom arrears may be due for the first two years, are to go absolutely uncompensated. Their rights were to be sacrificed because, as regarded them, they were not to be entitled to a single shilling compensation. This, I must say, is a principle both unjust and dangerous. Take, for instance, the case of the widow of a clergyman whose husband died in 1836, and who had a claim for arrears of tithes accruing during the years 1834 and 1835. The proposal of the noble Lord only went to the years 1836 and 1837; and, therefore, the noble Lord would have them say to a person so circumstanced, "Oh, you cannot expect any part of the 260,000*l.*, because we have declared that only the arrears of 1836 and 1837 have been included in our arrangement." This poor woman, then, was to be told, that she need expect nothing—that she must forego her claim, and that because you have thought proper to commit an act of injustice, she is to be divested of her legal right to recover that which is due to her. Now, Sir, I must say, that this does appear to me to be a great and wanton violation of principle; and that it is perfectly monstrous to say, that a remission shall take place without compensating the parties for the sacrifice you require them to make. It is, in short, offering a premium to those who resist the law, and that is a principle so dangerous, that I hope it will not be persisted in. I feel convinced, Sir, that such a mode of settling this question cannot prove satisfactory. There is a material difference between the course which I pointed out, and that taken by the noble Lord; and on consideration, I must say, that I give a decided preference to my own arrangement. If the forms of the House permit it, I certainly shall feel it my duty to take the sense of the House on the question as to which of the two plans ought to be adopted; and if I were called on to say, in lieu of the 360,000*l.* to be applied according to the per centage which my arrangement proposes, whether I would leave things as they are, or consent to a law being passed which would deprive the clergy of their right to recover their tithes, though no doubt the noble Lord's arrangement would be a pecuniary benefit to them, yet, thinking the proposal so dangerous a one, I would not hesitate to declare, that I would prefer permitting the law to remain as it is, and trust to Government to see it enforced. In fact, Sir, I would rather the bill remained as it originally stood, than accept so limited a proposition as this. While, however, I say this, I beg to state, that I give my cordial assent to those parts of the bill which relate to the conversion of tithe into a rent-charge, subject to a diminution of 25*l.* per cent.; but then it is to be understood by this, that I am not to be bound by this offer beyond the present Session. With respect, Sir, to the 640,000*l.*, I admit the justice of releasing so much of the arrears as are covered by that sum; but as far as the arrears that are not covered by that sum are concerned, I must repeat, that I prefer my own plan to that of the noble Lord, because I think it better calculated to a satisfactory result. Supposing that the House will reject my plan, I am obliged to resort to the application of the 260,000*l.*, as proposed by the noble Lord; but instead of compelling others to remit their legal claims, without proper compensation, I would prefer leaving the law as it is, to such a compromise. I think it right to intimate to the noble Lord, what are my objections to his arrangement.

Mr. *Harvey* said, unpleasant as might be the declaration to a House fatigued by the length of its sittings, and protracted as those proceedings must appear, inasmuch as they happened to be so unproductive, still it appeared to him, that every Member of that House who felt it to be his duty to oppose this resolution ought not to be restrained from so doing by any apprehension, that such a course might be found inconvenient; especially because the noble Lord stated, on a former occasion, that one of the main inducements which the Government had to sanction this resolution was to be found in the universality of its reception. The noble Lord stated, that whatever were his own opinions—and he was not reserved in their statement—yet, when he called to mind, that the leader of the great party opposite was the first to suggest this course, and that a party scarcely subordinate to that of the right hon. Baronet in power, though something less in numbers—he meant, that of the hon. and learned Member for Dublin — had also sanctioned it through the sentiments of its leader, and that there was scarcely a whisper of discontent from any part of the House, he (Lord John Russell) knew no principle more sound or constitutional than to recognise the voice of the people, so unanimously expressed through their Representatives, as the basis of sound legislation. He only wished the noble Lord would pursue the same course on intimations less open to suspicion; but he must say, that it was inconvenient, and that inconvenience was aggravated by the extreme difficulty, he would say the impossibility, of confining their views within as narrow a compass as even the greatest kindness could sanction—when the whole of our Irish policy must be opened in the discussion—to have, within a few days of the close of the Session, after five years of unproductive legislation, the present motion forced on their attention. There was an old adage, and a somewhat vulgar one, but still he thought, that her Majesty's Ministers were now entitled to the benefit of it—it was, that "We should give the devil his due." And he must say, that her Majesty's Ministers were not the authors of the mischief; because, though the right hon. Baronet (Sir R. Peel) had, he would not say contrived — because nothing was more easy to the right hon. Baronet than to complicate and mystify, as there was no one who could, when he chose, render a subject more clear and intelligible—to win the assent and gain the sanction of the Government to a proposition, from the palpable consequences of which he himself seemed, by his speech that night, to meditate a retreat. And it was impossible to listen to the statement of the right hon. Baronet without feeling that, instead of arriving by this measure at the consummation of all things the most to be desired—the permanent adjustment of Irish differences—this formed but the preface to a book of difficulties. For what was the proposition? That a sum of 260,000*l.*, the alleged balance of the million loan, should be placed in the hands of unpaid, and, to a great degree irresponsible, commissioners, to be doled out to those persons whose tithes were in arrear for the years 1836 and 1837, at the same time, that it is intimated, that some allowance should be made for those who had arrears remaining unpaid for the years 1834 and 1835. That advertisement must bring before the commission, whoever composed it and wherever it sat, pretty much the same accounts as resulted from the advertisement which was announced in the year 1833, and which proclaimed to all persons, lay and ecclesiastical, who had arrears of tithes due for the years 1831, 1832, and 1833, however contingent or doubtful their demands, and whatever unsettled accounts there might be between debtor and creditor, that they should bring in every claim they could, because the House of Commons, in the fruition of its benevolence, had issued a million of money to be scrambled for in the city of Dublin. And what was the result of that proclamation? Why, that something more than a million of money was required, not in pounds only, but often to the uttermost farthing. Noble Lords, right reverend deans, and right reverend fathers in God, all sent in claims, some for one year, some for two years, and some for three years, amounting, in many instances, to pence and farthings. Well, then, when all that could be heaped into the bureau of that commission was so expended, was there any fair ground for supposing, that it would be otherwise in the present case? Why, the amount to be met must be much larger, and for the very reason assigned by the right hon. Baronet, because up to 1833, there might have been the impression, that agitation might do mischief to the object of the parties who resisted tithes; and, at all events, it only tended to keep alive the hope, that it would ultimately prove triumphant; but since that year an intimation had been given from the highest quarter, that all tithes were to be extinguished, and, accordingly, no tithes had been paid. If, therefore, in the years 1831, 1832, and 1833, they found a million of tithes in arrear, was there any thing unjust in the inference, that for the years 1835, 1836, 1837, and 1838, they would have ultimately to vote, as a provision for arrears, a million and a half? He said, 1838 for this reason, because as they were now legislating precisely at the same period as that at which they had provided in 1833 for the arrears of that year, it was not too much to suppose that, as they had taken credit for arrears in the former period, before they were due, they would pursue the same course now when the circumstances were similar. He saw, that the noble Lord opposite (Lord Stanley), who might be considered an epitome of Irish affairs, appeared to doubt his statement; but he had taken the trouble to go through the speeches which were made at that period—he did not allude to the noble Lord's, because he had derived too much profit from that to consider its perusal a trouble, though he could not say so much of others—and he challenged any hon. Gentleman to dispute the accuracy of his statement. He therefore maintained, that a million of money was granted to pay the arrears of tithes for the years 1831, 1832, and 1833, which proposition had been submitted in the year 1833. If, then, the tithes of 1833 were provided for, in point of fact, before they were due, because it had been declared by statute, that tithes should be collected once every year, and that in the month of November, he asked the right hon. Baronet when, in the month of August 1833, they gratuitously anticipated the arrears for that year, at a time when their granting them at all might be construed into a reward of treason and resistance, on what principle did he refuse to make provision for the arrears of the present year now, when during almost every Session since the former period, a proclamation had gone forth, that tithes in Ireland should cease for ever. Why did he dwell on this point? Because he was anxious to protect the Government from falling into the pit, which their opponents were digging for them. Now let them mark for what object the 260,000*l.* was to be paid. To pacify Ireland, to settle the ever restless question of tithes—a purchase for which England could not pay too high a price, because it arrested the progress of legislation by forcing every thing to be done piecemeal, and nothing well. There was, he repeated, no sum—as far as a great principle could be settled by vulgar payment—too great to secure so great a good. That was the assumption on which they now proceeded; and they showed their commiseration for Ireland after the true John Bull fashion, by suffering their pockets to be picked for its benefit. Well, let them see whether next Session there would not be a motion made on the other side, not by those who stood in the fearful position of prominent responsibility, but by the numerous attachés who floated round that bench, and who acted on secret instructions, for returns of all applications made for tithe arrears during the years 1836 and 1837. On which somebody would rise and ask, "would it not be better, as we are coming to a comprehensive settlement of this great question, to include the arrears of 1834 and 1835?" The intimation would be thankfully received, justice, it would be said, prompted it, and it would be immediately complied with. What must be the result? Why, that if in 1833 the arrears amounted to a million of money, they must, in the present case, far exceed that sum. If 260,000*l.* was the whole amount of arrears of tithes out of two millions and a half, spreading over four years, then tithes were more easily collected in Ireland than in England, and it was a gross misstatement to say, that Ireland was in that volcanic state, of which they had lately heard so much. If that statement was true, away with the doctrine, that they could not collect tithes! If it was false were they prepared to meet the result? What was it they aimed at? If they did not forego the claim to all arrears of tithes the canker must remain in the heart of the State: the disease might be diverted, but the leprosy would inevitably break out, unless the source of the disease were removed. I any Gentleman on that side or the other —for he did not know which side to call that of the Government—were to propound a measure so broad as this, that from the year 1831 up to the present time, tithes should be extinguished by an advance of money commensurate with the demands for arrears, however monstrous such a proposition might be, it would at least be intelligible; and if the sum proposed would attain its object, it would not be too large. But the present proposal came on the Government, as on the country, with infinite surprise. Not a word was said, or attempted to be said, by Ministers in vindication of the resolution, except the expression of their conviction, that it would not produce the result which some anticipated from it. The noble Lord (Lord John Russell), in the clear statement which he made on a former night, so much at variance with the conclusion at which he arrived, objected to the proposition of the right hon. Baronet on three distinct grounds: first, that no account was given of what was required; secondly, that it was not proved, that it would bring about a satisfactory settlement; and, thirdly that it was a bad precedent to reward the disobedient, and neglect those who had observed the law. Now, as to the second point, he thought an unjust stigma was cast on the Representatives from Ireland, when it was supposed, that they would eagerly sanction any proposition which gave money. He for one did not understand, that justice for Ireland which was based on injustice to England. Nor could he suppose, that the Representatives of Ireland, would be guilty of such low and filthy meanness as to intimate their readiness to take money, simply because it was offered to them. They might as well say, that it was the act of an honest man, if a turnpike-keeper had kept a half sovereign instead of a sixpence, and when he was detected, pleaded as an excuse, that he was not asked for change. That was a species of vulgar legislation against which he protested, and to which he was sure the Irish Representatives would not be found willing to subscribe. But it was asked, "Are you prepared to arm the clergyman, the lay impropriator, the Government, or whoever else purchases the arrears, with free powers to enforce the repayment?" His answer was, they had never tried the power which they already possessed. In the year 1833 it was expressly provided, that the money advanced by way of loan should be repaid by five annual instalments, beginning on the 1st of November, 1834, and the tithes were recoverable in the same way as rent was. If the landlord who received the money asked, would he resort to his tenants to collect the arrears? That was his consideration; but we, the people of England, had precisely the same remedies against those who borrowed the money, and against their estates, as the landlord himself for his rent against his tenants; because the act expressly provided, that tithes should be extinguished, meaning by that, there should be no longer a tedious, expensive, and intricate process for their recovery, but that they should be considered in the nature of a judgment recovered, and as a lien on the land, to be enforced as a landlord exacts his rent from the tenant. But then it was asked, "Would you enforce these claims against the miserable starving pennyless tenants of Ireland. Would you throw them into a state of rebellion, arm soldiers instead of appointing sheriffs, and give them cannon instead of precepts?" No such thing. He asked the noble Lord at the head of the government of Ireland, whether he ever applied for any money due since the year 1834? He knew very well he was addressing many Gentlemen who had received this money; and he was also perfectly aware, that the principle of the measure, was one which many English Members, would be glad to have carried into operation in this country; because it would be a very convenient thing if landlords and tithe owners not finding their demands supplied with the promptitude which their wants suggested, were to have some device for clearing off their arrears by way of a loan, to be repaid in five instalments, and then, by a juggling between all parties, agreed to be remitted altogether. He therefore admitted, that he was addressing an unwilling audience; but that should not prevent him from saying, that the people of this country were almost sick with the cry of justice to Ireland, when it was found to resolve itself into this—that they should pay their tithes and rent (for that would be the next demand) to the landlords of Ireland. He maintained, that this money was obtained under false pretences and he would prove it. He had extracts from the speeches of Mr. Littleton and Lord Althorp, when the subject of the loan was first brought under notice. He was performing a very painful duty, but he should discharge it. When this subject was proposed to the House in the year 1833, an intelligible intimation was thrown out, that if the money was advanced, it would not be repaid—a fear that was justified by past experience. Lord Althorp then observed, that he was willing to put the question on the issue whether the loan would be recovered or not; and if he were not satisfied, that there was a reasonable probability of its being restored, he thought the bill ought to be rejected. He did not know whether it was necessary to follow up that statement by a correspondent declaration. At the same time it was important to find, that this was the opinion, not of an individual, but of the Government. Mr. Littleton said, "that it had been suggested, that it would not be possible to realize the rent-charge, but he assured the committee, that he never would have been induced to support the proposition if he had not been convinced, that it was not only practicable but easy to realize the amount." Then he maintained, that unless a strong and resistless case of justice and policy were made out by which the Government could call on the guardians of the public purse to make a retrospective and, coupled with the observations made on the other side, a still greater prospective sacrifice, Ministers ought not to call on that House to sanction the present proposal. But if they were prepared to adopt a more plausible plan it ought not to be extorted from them in an incidental way. It should be part of their policy, part of their commendable policy, part of their enviable policy, to come down and propose a scheme, at whatever sacrifice, which they looked upon as of incalculable benefit to the peace of Ireland, and to the security of the British empire. But they caught with eagerness at a plan promulgated in a sort of under-toned murmur from the other side and because it was not received with clamorous opposition from this side gave their approval to it as the unanimous resolution of the House. What did the noble Lord (Lord J. Russell) state on Monday? After a Cabinet deliberation he declared, that though prepared to a certain extent to accede to the proposition of the right hon. Baronet—just to the extent, that did mischief, without effecting any good except to give dissatisfaction to both countries — he believed, that the money forgiven was just so much thrown away. It was suggested, by the noble Lord, however, that it would be the means of purchasing peace for Ireland. To whom did he appeal for confirmation of that delightful assurance? Why he turned to the Representatives of Ireland he turned to the Representative of all Ireland. And what did he say? Why this — "We are ready to take your money, if it was double the amount, and we should have no objection if the charges were double the amount, provided they were defrayed for the benefit of our country at your expense"— this is practical justice to Ireland — but when you fancy, that you purchase peace, do not suppose, that we are to be insulted. We are ready to take your money, but we want to be disburdened of a Church of hideous magnitude, not as to duties, but in point of resources, and from which we dissent in doctrine, discipline, and worship, and we shall never be satisfied, give us what you may; a million this year, or two the next, advancing by millions as your cowardice increases until you have stripped the Church of its gorgeous revenues and placed it on such a footing as is consistent with the rights of "free people in matters of religion." What did they (the Opposition), who in the last quarter of a century had brought Ireland to the threshold of rebellion, who had fertilized the soil with the blood of her sons, believe, that now, when she felt her great power, she was to be bribed by a few instalments, and the addition of some arrears? Was this British legislation? was this the school of statesmen? Were they to be told, that no man was fit to govern this country but one of large possessions, of sounding titles, and hereditary connections? and that those who had common understandings and fair attainments were unfit to enter the Cabinet of great men, who, let them do what they would, let them make what blunder they might, found an easy remedy in the State bribery which now seemed to be considered a panacea for all evils? Why not come at once to the sources of the grievances which afflicted Ireland, distracted both countries, and interrupted the useful flow of quiet and valuable legislation? It was because they would keep up — but with all their efforts they could not long succeed—a Protestant Church with only 600,000 members within its bosom, whilst those who profess an opposite and different faith amounted to nearly 8,000,000. That was a gross monstrosity which could not long exist. When the loan was demanded warm eulogiums were pronounced on those who were to become the recipients and who, as in the case of the silver medals in the temple the other day, were to snatch some part of the prize to be scrambled for by the little dukelings. There was no chord of our sympathies which was not touched, and which did not vibrate to the touch; we were assured by the right hon. the Recorder for Dublin that their last garments were pawned, and a person who had written to that right hon. and learned Gentleman, gave, as the only reason why he had not changed his last note, that it was borrowed. In this way was our sober discretion assailed, so, that the Government had to interfere for the purpose of restricting the advance to a million. And who were these poor labourers of the Gospel? He should be told by those friends of the Church—the much villified Church, who were on the opposite side, that in every parish was to be found a pastoral labourer not inculcating the duties of religion more by his eloquence in the pulpit than by the quiet illustrations of christian charity in his conduct, and considering it his first duty to preserve the glimmering light of the Protestant faith in this benighted land, and thus lead men from the wayward path of error to the truths and consolations of Christianity. From these strains of eloquence it was not too much to infer that these Gentlemen who were such benefactors resided amongst their parishioners, and had each due to them about 120*l.* a-year. But was it said of the 1,260 persons whose names were put down in the return only 460 were resident clergymen? Who were the other people? Many of them Peers of the realm, with their 30,000*l.* and 40,000*l.* a-year—many of them large landed proprietors, with their 10,000*l.* and 20,000*l.* a-year: all these persons had taken advantage of the advance of 1,000,000*l.* and yet the money returned did not amount to 4,000*l.* The fact was, that no attempt had been made on the part of the government to recover any portion of this money. If any such attempt had been made, what reason on earth was there why 300,000*l.* or 400,000*l.* should not have been recovered? He repeated that it was most disgraceful and scandalous, first, under false pretences, to obtain this money and then under another pretence to keep it. He maintained, too, that this prodigal expenditure of the money of the people of England would not give peace to Ireland, but would merely serve to foster discontent and encourage resistance to the law. The first principle of a good Government was to assert and maintain the sovereignty of the law. The effect of the proposition now submitted to the House was to give a bonus to those who resisted the law. Such a course of proceeding might be worthy of a House which was mistakenly called a reformed House of Commons, but it was totally inconsistent with the first principles of wisdom and justice.

Mr. *W. S. O'Brien* supported the original resolutions, and contended, that from everything that had occurred on the subject of Irish tithes since the advance of the million, the people of Ireland were led to believe that the tithe arrears would be given up. If that expectation were now disappointed, the greatest excitement and discontent would prevail in Ireland. Would it not be placing the Irish clergy in an exceedingly disagreeable position to send them now to collect arrears so long due, and the collection of which was so little expected? He thought the additional grant of 260,000*l.* beyond the 640,000*l.* already advanced would have the effect of putting an end to any further litigation on the subject of tithes. If the clergy gave up all claims to arrears, they would then start on a new system, in which they would no longer come into collision with the Catholic population, but have their claims on the owner of the land.

Mr. *Grote* was anxious to take the first opportunity of entering his strenuous protest against the large additional charge which the noble Lord's proposition would introduce into the Irish Tithe Bill as regarded the people of England, and that, too, without the prospect or pretence of securing any permanent advantage to Ireland. It was not his intention to have taken part in any discussion that might have arisen upon the Tithe Bill, because he had, in fact, ceased to take any interest in that measure after the abandonment of the principle of appropriation; but the proposition now made by the noble Lord appeared to him to be at once so monstrous and so mischievous that he could not abstain from saying a few words in opposition to it. He confessed, that the right hon. Baronet appeared to him to have most completely vindicated his consistency against the attack of the hon. Member for Kilkenny and he thought that the right hon. Baronet might well be pardoned if he indulged a triumphant feeling when he found the proposition made by him in 1835 so eagerly adopted by the Government in 1838. He recollected the remarks of the right hon. Baronet in 1834, referring to the then intended measure of the Government of that day, that of all the vulgar errors of a Government, that of trying to solve every difficulty in which it might find itself by dipping its hands into the pockets of the public was the meanest and most contemptible, and was always indicative of great weakness in the Government which had recourse to it. Never was that remark more applicable than to the measure now before the House. The Government found a difficulty in carrying out a tithe measure, and they tried to get rid of that difficulty by a fresh demand on the pockets of the people. But would that demand, if carried, get rid of the whole difficulty? He rather thought the greater part of it would still remain. The clergy might relinquish their claim to the arrears due to them; but these arrears would not be extinguished. The Government might still claim them. Had the advance of 640,000*l.* produced a remission of the arrears? The clergyman might still claim, unless his claim was barred by the act of the Legislature. By what process of reasoning was it that the Government arrived at the conclusion that because 640,000*l.* of English money had been given to Ireland for purposes which had not been obtained, therefore 260,000*l.* more was to be given without the prospect of arriving at a more satisfactory result? He thought it would have been more becoming on the part of the Government, when they found that there was little hope of recovering the 640,000*l.* which had been advanced, to come forward and state the fact to Parliament, express regret at the error into which they had fallen, and take care that the remainder, the difference between the 1,000,000*l.* and the 640,000*l.* should be saved to the people of England. It did not appear that any of the difficulties which surrounded the question of tithes in Ireland would be removed by the additional sum of money which it was now proposed to pay out of the English treasury. He did not hesitate to state, therefore, that he considered the grant most improvident and impolitic. When he found that, in addition to the discredit of leaving out the appropriation clause, a large sum of money was to be paid under this bill out of the pockets of the people of England, he was bound to declare, that since he had had the honour of a seat in the House no proposition had ever been submitted to it to which he felt a more unqualified opposition, or against which he felt it his duty to protest in a stronger or more energetic manner.

Sir *Robert Peel*, begged to observe that he did not propose to deprive any man of his legal remedy for the recovery of tithe; nor did he propose to extinguish any tithe whatever.

Mr. *Grote* said, that his observations applied entirely to the proposition of the Government, and not in any way to the proposition of the right hon. Baronet.

Lord *John Russell*, referring to the objections which had been raised by some of the hon. Gentlemen who sat on that side of the House, admitted that very great difficulties must be encountered in any attempt that might be made to settle this question; but he certainly was not prepared, like those hon. Gentlemen, to say that he considered it discreditable to apply his mind in the best way he could to the difficulties of Ireland in the year 1838—to attempt the best solution he could find of those difficulties—and to look to the peace and prosperity of Ireland as his chief guide with respect to this question. Instead, therefore, of applying himself to the objections which had been raised by the hon. Gentleman who sat near him, he should rather direct himself to the observations which had been made by the right hon. Baronet the Member for Tamworth. The plan originally supported by the Government proposed to commute the tithe composition into a rent-charge, at a certain per centage, and to leave any future payment upon that foundation. It was said and said undoubtedly with great truth, that if the question were left in that situation, there would be not only much difficulty, but an absolute deterioration of property on the one hand; and, that there would be objections, if not resistance, to the payment of the rent-charge on the other; and it was proposed, in order to avoid those evils, that the arrears of which 640,000*l.* had already been met, should be paid out of an advance made from the Treasury. Now, the way in which the right hon. Baronet proposed to give the money so paid out of the Treasury, was this: that it should be left optional to the clergyman to receive any further sum that might be advanced; that if he (the clergyman) would not receive the sum proposed, then his claim for arrears might be put into full force; if he did receive the sum proposed, that then his claim should not be extinguished, but, that the Government, who became the purchasers, should have full power to enforce it, if they thought proper so to do. Now, his (Lord J. Russell's) opinion was this, that if the House really determined to make a sacrifice of public money, that sacrifice ought to be made in such a way as to give the best security against a recurrence of the contests which had taken place upon the subject of arrears. But what would be the case if the plan of the right hon. Gentleman were to be adopted? Suppose, in that case, an attempt were made to enforce the payment of tithe, and the attempt were to be defeated, and the clergyman should consider his claim desperate, he would, of course, immediately apply to the Government. By satisfying his claim would you or would you not be giving that premium to resistance which had been so strongly objected to? Undoubtedly, it would as much, if not more, than any plan by which they might extinguish all the arrears of tithes at once. But the right hon. Gentleman further stated, that he would still keep up the claim, but that it should be on the part of Government; he would make the debt due to the Government, which they might enforce. But if the Government were to attempt to enforce the payment, would they not incur all those difficulties which the noble Lord, the Member for North Lancashire, (Lord Stanley) incurred in the attempt to enforce them by his measure of 1832? Would they not meet with the same collisions and with the like resistance on the part of those, who for three or four years, had successfully resisted the payment of them, especially if the new claim were to be enforced by aid of the police and the military in the name of the Government? If, therefore, the plan of the right hon. Gentleman were to be adopted, they would, on the one hand, be making a sacrifice by the grant, so much objected to, of the public money of the United Kingdom, in order to satisfy the tithe-owner, while, on the other hand, they would not be producing that state of peace and tranquillity in the country, which was the only justification for making any proposition at all on the subject. Then, with regard to those clergymen, who, thinking that they had a probable chance of recovering seventy or eighty per cent. of their tithe, whereas, by the right hon. Gentleman's plan they would only receive fifty per cent., should refuse receiving the arrears from the Government, in that case the right hon. Gentleman would be keeping up the contest for payment of the arrears, not indeed, between the Government and the tithe-payer; but between the clergy and the tithe-payer: therefore, in that respect also they would not be obtaining that peace and tranquillity which, he said again, would be the only justification for adopting any plan at all. It was for these reasons, that Government had come down, in compliance with what he believed to be the sense of the majority of that House, to propose a grant of this nature. They thought it should be a grant that would put an end to the right of demanding these arrears; while the mode of collection for the future should be peaceful, and one by which no risk of collision would be incurred. He certainly did not consider himself either justified, by himself, or in the name of his hon. Friends near him, in proposing a grant of the public money in the way in which the right hon. Gentleman thought it ought to be granted—that of making it optional with the parties to receive it or not. At the same time he confessed, that what the right hon. Gentleman had stated with regard to his view respecting the clauses which he (Lord John Russell) had proposed, was perfectly fair on the part of the right hon. Gentleman, and entirely in conformity with what he had stated the first night this question was discussed. With respect to that point, he and the right hon. Gentleman were at issue. He (Lord John Russell) did not wonder that the right hon. Gentleman retained his opinions; but neither could he recede from the opinions which he entertained on that subject. The hon. Member for Southwark, who had made a very able speech on this occasion, had made one mis-statement. He stated, that the Government only went to a certain extent with the plan originally proposed, and which would create dissatisfaction in Ireland without satisfying those who were proposing a somewhat similar plan on the other side. On the contrary, he thought the plan proposed by the Government, so far as the peace of Ireland was concerned, went not to the same, but to a greater extent than that proposed by the right hon. Gentleman. It might be be said, indeed, that the Government plan went to extinguish the right of property in the arrears perpetually, whereas the other plan did not; but, with regard to the extent of settling past arrears of tithes, it did so more entirely than the plan of the right hon. Gentleman. The hon. Member for Southwark also stated, no doubt, ably and eloquently, many objections that existed against the Government plan, as indeed he also objected to the appropriation clauses. But he (Lord John Russell) would observe, that to the hon. Gentleman, with his abilities, and not holding himself responsible for any plan or proposition that might be adopted, it was by no means difficult, considering the complicated state of affairs in Ireland, and the passions that existed there on one side and on the other, to point out objections to any plan which might be proposed by those who were responsible for its adoption, he, at the same time, not only holding himself free from the obligation of proposing any plan, but, as it would appear, if the plan immediately in contemplation were rejected, being utterly indifferent as to what would be the consequence of that rejection, whether any other plan were to be substituted for it or not. He certainly could not but admire the ability of the hon. Gentleman; but Government would act with great imprudence if they were to follow his advice. Whatever might be the view of the hon. Gentleman on this question, the fair view that ought to be taken of it was in what way could they come to a practical conclusion upon the subject. It might be the practical conclusion proposed by the Government, or the plan proposed by the right hon. Baronet the Member for Tamworth or the plan proposed by the hon. and learned Member for Dublin; but that the House ought to come to some practical conclusion, and endeavour to make some settlement which at least for a time might improve the condition of affairs in Ireland, was, he thought, a most obvious duty on their part. The hon. Member for London (Mr. Grote) had quoted with great commendation the speech of the right hon. Baronet in 1834, in which he said, "that of all the expedients of a Government, the most vulgar expedient was that of dipping their hands in the public purse." No doubt the right hon. Baronet did make that statement, and which had been so popular in that House; but, for his part, he did not observe, when the right hon. Baronet held the strings of the public purse, that his conduct was quite in conformity with his own proposition; for he (Lord John Russell) remembered, when the right hon. Baronet was at the head of the Government, one plan proposed by him, with regard to Ireland, was, that the whole million should be given for the satisfaction of tithe arrears; that with regard to Scotland he proposed that a large sum should be granted for the behoof and benefit of the Scottish Church; and that with regard to England he proposed that a large sum should be given, either from the consolidated fund or by a grant of supply, for the relief of the county-rates. Therefore he had a right to say, that the practice of the right hon. Baronet when in power, was not quite in accordance with the principle he had himself laid down the preceding year. Admitting then, that there might be objections fairly urged against the plan now brought forward by the Government, yet, upon the whole, seeing the evils that would arise from the collection of these arrears, those evils having been stated very powerfully, and he had no doubt no less truly, by the representatives of Ireland, he did conceive that an equivalent good might be obtained by the sacrifice of this amount of the public money sufficient to justify the proposed proceeding. The hon. Member for Sheffield, holding language similar to that used by the hon. Member for London, had said, indeed, that they could have no hope of settling these Irish questions satisfactorily; that having given up the appropriation clauses, it was not likely that they should obtain a good municipal bill; that they were going on in a hopeless course; and that it would be better to give up the attempt altogether for the present. Now, he did not agree with the hon. Member. No doubt it was a very easy course to recommend, the giving up the Tithe Bill on the ground that they could not obtain all they required, or the rejecting the Municipal Bill, when it should be returned to them by the other House of Parliament, on the ground that it was not that which had been originally proposed. But he did not see that which he thought he ought to see before he could agree with the hon. Gentleman, namely, that he should be able either the next year, or the following year, to say, that he could promise to carry measures for Ireland, that would be more beneficial than those he should reject in the present year. He thought he was bound to consider, both with respect to this bill and with respect to any other measures relating to Ireland, what were those measures which they were likely to be able to carry, and would the effect of them be the improvement of the present condition of the affairs of Ireland. If it would, if they would improve that country, if they would not be making things worse, nor even leaving them in their present bad state, he certainly for one should consider himself entitled to adopt and to assist in such legislation. He did not think it would be his duty to carry on the contest either in the House of Commons, or between that House and the other House of Parliament, with respect to measures relating to Ireland, unless he saw, that by some means or other he was likely to improve by delay the condition of the affairs of that country, or the measures which he should be able thereafter to carry. He had no doubt, indeed, that he differed with the hon. Member for Sheffield on this point; he had no doubt that the hon. Member for London would consider the course he (Lord John Russell) thus took a wrong one. But it did seem to him that for persons engaged in governing a country, their first duty was, to consider the situation and the interests of that country; and it was their duty even to bear personal reproach if, by so bearing reproach, the condition of that country might be improved, than that, by shrinking back in order not to incur reproach, the condition of the country might be made worse. Having that opinion of his duty, rather than entertaining the view taken by his hon. Friend the Member for Sheffield, he should endeavour to the utmost of his power to improve the measures which had been brought forward, and while putting them in the best practical shape, he should endeavour to reconcile himself to their adoption, rather than seek for reasons that might justify their rejection.

Sir *Robert Inglis* said, the hon. Member for Southwark, taunts us with inconsistency in this matter. I objected to the original grant; I was overruled; the grant was made, or at least, to the extent of 640,000*l.* Over and over again the clergy were told not to try to collect their arrears; the under secretary for Ireland wrote to them to suspend any proceedings for that purpose; and two acts of Parliament in successive years suspended their obligation to make repayment to the Government. You now depreciate the tenure of their property; you disparage it in every way: you render it all but impossible that they should recover it. A man, who objected to the original grant, may now therefore, very consistently say, that the case is so altered, that though he would never have made the original grant, yet when the repayment has been made impossible,—not by any default of the debtor, but by the act of the creditor, the Government,—he will not try to enforce that repayment. This is my case.

Mr. *Warburton* said, if the measure of Government offered any reasonable prospect of affecting either a permanent settlement of the tithe question, or even a lengthened truce upon the subject, then the Government would be justified in proposing the present plan; but when he saw that by the course now adopted a premium was held out for disobedience to the law—when he saw, that the arrears of tithes were to be excused to those who owed them—he thought he perceived in such a course of proceeding the certainty that tithes in future would no longer be paid. Taking this view of the subject, he considered that both parties, Conservatives and Whigs, in that House were not dealing sincerely with the question, and had only been playing with it. When he supported the appropriation clauses in 1835 he did so, not meaning the appropriation of a surplus which was to be no surplus, but he meant the appropriation of a real and tangible surplus out of the present revenue of the Church to the great public object of the general education of the people. He thought by the adoption of the appropriation principle there was a reasonable security given, that a certain portion of the revenue might be secured for the Church, while a tangible surplus would be secured for other great public purposes. But between the appropriation of a surplus which was no surplus at all and the abandonment of the appropriation principle he really did not consider that that there was a pin to choose. But the House having arrived at this conclusion, and having given a premium to resistance to the payment of tithes, and thereby putting an end to the payment of tithes for all time to come, he would say, that the tithe revenues for the clergy was, in fact, abandoned. This being the case, he would at once tell the public so. Let the Government say, "If you mean to support the clergy of the Church in Ireland, you must put the charge for their support in the budget;" and then the people of England might be plainly asked whether they were willing to grant a vote for the support of the Irish clergy. That would be dealing fairly with the people of England. What he accused both the Government and the hon. Gentleman opposite of was, that they knew that this measure would afford no security for tithe in Ireland; that it would not be a permanent settlement, but that they blinked the question. No; they would not come to the admission that the revenue for the Protestant church in Ireland must be abandoned; they were therefore willing to adopt this measure as a temporary expedient.

Viscount *Howick* said, that after the observations which had fallen from the hon. Member for Bridport, he was anxious to explain shortly the ground on which he concurred in the present proposition, and also in the general course which was proposed to be taken during the present session upon the subject of Irish affairs. The hon. Gentleman had stated the reasons that induced him to vote in 1835 in favour of the appropriation of the surplus property of the Irish Church; and said that his views were, in the first place, that a part of the revenue of the Irish Church would continue applicable to the support of the clergy, but that for the purpose of preserving that portion from the hostility of the people in that country there should be a different appropriation of the remainder, namely, that a real surplus should be applied to purposes of general public utility. He entirely concurred with the hon. Gentleman in those views. Those were the views which had induced him also to support those resolutions. He believed at that time, and he believed now, that the resistance which had been made to the payment of tithes in Ireland had arisen, not merely from the vexatious mode in which the impost was collected, but also from the natural hostility of the people to the purposes for which they were applied. He believed, that it was natural that a large population differing from the establishment should feel hostile to the application of the whole sum levied from the property of Ireland to support a Church, the doctrines of which were professed by only a small minority of the people, He felt that that was an objection which, if he were in their situation, he himself, should have most strongly entertained; and therefore, he was not surprised that they also should feel it. He believed, when the right hon. Member for Launceston, while Secretary for Ireland brought forward his measure to remedy the evils which were then felt in Ireland from the difficulty of collecting tithes, that it would necessarily fail, and for this reason, that it was directed against the symptoms only of the disease, instead of the disease itself. He remembered when Lord Stanley, in 1832, brought forward his tithe bill, that the noble Lord devised all the powers which he thought the most stringent, and framed it with all the ingenuity he possessed, and in a manner which he thought most certain to accomplish his object. He also remembered, that on that occasion the noble Lord was told by an hon. Friend who was no longer a Member of the House—Mr. Brownlow—that his measure would fail, because it was the purpose for which tithes were collected, and not the mode of collecting them, that constituted the evil. He believed, that in 1835, he saw the realization of that prophecy. He therefore voted most earnestly for the resolutions which were at that time adopted; and he afterwards concurred in the measure founded upon those resolutions. The hon. Member for Bridport had said, that that measure had only produced a sham and a delusion. Now, he had never disguised from himself that the principle upon which that measure was founded would have led to measures larger and more extensive than those that were afterwards proposed to the House. He was perfectly sensible that if the Irish people had insisted for that which, in his opinion, was their clear and undoubted right, they might have demanded more than the Government or the Legislature intended to give them. But he believed, that it was with the Irish people not merely a question of substantial interests but a feeling of wounded pride, and irritated honour. They felt themselves committed upon this subject. and required to have some assurance that they, the people, and not merely the Church, were the first object of regard to the Government. It was not merely a diminution of 50,000*l.* of the Church revenues in Ireland, or the mere application from that source, rather than from the consolidated fund, of a sum of money to the purposes of general education, which in his view, was important. He considered that a sum derived from this particular source would tend to soothe the wounded feelings of the Irish; and that if such a measure would not produce a final settlement of the question, it would at least produce so long an interval of tranquillity that men's minds would hereafter, when they came to consider the subject, be far more disposed calmly to come to some rational arrangement. He believed, therefore, that this proposition afforded the best chance for the preservation of the Irish establishment. He did not disguise from himself that that establishment stood upon grounds altogether unlike that of the establishment in England or in Scotland; but he believed, that if they could get rid of the immediate bitterness of the dispute, and if they could postpone the struggle as to whether the establishment should exist in Ireland or not, the inherent truth of the doctrines professed by that establishment would gradually work their way. He believed, that if the Church itself were reformed, and if that unfortunate secular spirit, and that undue regard for worldly wealth, which it grieved him to see so much displayed in so many of those disputes, were corrected, those causes which now prevented the diffusion of Protestantism in Ireland would be removed, and the Church itself become greatly purified and enlarged. The Church in Ireland might be less wealthy, indeed, but it would be permanently based upon the same grounds as the Church in England, and with the same permanent benefit to that country. Those were his views. But perceiving during these debates for three years past that men's minds had got much irritated upon this subject, the effect he formerly anticipated from a grant of 56,000*l.* it would be perfectly visionary to suppose could now be realized. He foresaw, and he deeply deplored it, that a far more difficult, a far larger question with respect to the Irish establishment would come some day or other to be agitated in that House. It was this which gave real importance to what was termed the appropriation clauses. At the same time, while he saw the difficulty, still the mode of collecting tithe in Ireland might perhaps in many respects, be mitigated. He found it was the general wish of the representatives of Ireland that something should be done at least to mitigate the evils of collection, if at a future period a final arrangement with regard to the appropriation principle should not admit of adjustment. For these reasons he thought that without in the slightest degree abandoning any opinion he had previously entertained, it was open to him at present to waive insisting upon the appropriation of any specific sum from the revenues of the Irish Church to the purposes of general education. At the same time he believed that even the mere fact of carrying the resolutions of 1835 had not been without its advantage. He believed, that the certainty of the House of Commons having sympathised with the people of Ireland upon this great subject had produced a most useful effect in that country; and he also believed, that, merely with the regard to the collection of tithes, those resolutions had not been without their advantage. He likewise believed, that if they had persevered in the attempt to collect tithes, with the recorded determination of the British House of Commons that the property of the Irish Church should continue permanently undiminished, whatever the opinion of the Irish people might have been—whether they had put the charge upon the landlord, or had taken any other course—the resistance to, and the struggle against, the payment would have continued, and that they would have had less collections than had actually taken place, because he could not help feeling, that on a question of this kind he must necessarily entertain a very strong opinion. If the House of Commons, being the great governing power over the affairs of this empire, were committed against the people of Ireland upon this subject, it necessarily would produce a struggle which would be incompatible with any notions of a really free and constitutional Government. The very term "constitutional Government" implied a Government carried on in conformity with the deliberate opinions of the great majority of the people. If they were in this country to attempt to apply the rule of maintaining any, even the most valued, institution against the wishes of the people, they would all readily perceive how absurd the attempt would be. If the people of England were to employ all their constitutional powers and privileges, such as the right of returning Members to that House, and the right of petitioning in support of any measure on which they had set their hearts, the House of Commons knew well that the people must succeed, and that to carry on the Government in opposition to their wishes would be altogether impracticable. But it was thought in Ireland that the case was different. This question of the Irish Church had always, in his mind, derived great importance from this circumstance, that it was practically putting the House of Commons in a position which made it impossible for them while the evils of that Church were allowed to remain, fairly and fully to carry out the principles of constitutional liberty. If the Government were to avow a determination to pursue a line of conduct entirely adverse to the wishes and feelings of the great body of the Irish people, and if that people were determined to use their powers and privileges in opposition to that Government, a state of things must necessarily arise which could only lead to endless mischief and confusion. Therefore it was, that he said even though no practical legislative measures flowed from the resolution of 1835, this practical good had, nevertheless, resulted from them, that the passing of those resolutions had shown to the people of Ireland that the British House of Commons sympathised with them upon a subject in which they took the deepest interest. He would apply these views to the immediate question before the House—the granting of a sum of money to meet the deficiencies in the arrears, which were now due for tithes. He agreed with the hon. Member behind him, that there was a great fault somewhere with regard to this measure. Hon. Members opposite would lay the fault on hon. Members on the Ministerial side of the House, for not placing at an earlier period the liability of payment on the landlord; whilst he, on the contrary, would attribute the fault to the Gentlemen opposite for not having adopted those measures which in his conscience he believed to be necessary for the settlement of the Church question. Admitting, however, that the fault lay somewhere, things were now in such a position that they could not act in any manner without laying their plan open to well-founded objections. He admitted fully that he had the strongest objection to this grant of the public money; at the same time it was clear that the state of opinion and of parties in this country was such as to prevent any extensive reform at present in the Church of Ireland, and he must, therefore, consider what chance was the best for the time of proving successful; and he thought that, for the chance of a successful issue the adjournment of the great differences for a period was desirable. [*Hear, hear!*] He was glad to find by the cheers of the right hon. Baronet, that the right hon. Baronet thought that he was stating no new doctrine. He allowed, that by the present measure the great question of tithes in Ireland would not be settled, but only adjourned; he was not sanguine of the success of any such recipe whilst the Irish people felt and were sensible of the state of their country, whilst they felt the hardship of maintaining a Church which was in some districts alienated from ninety-five per cent. of the people. In the course of human nature it seemed clear that causes did exist which would bring forward the subject in a different shape at some time or the other; he sincerely hoped, however, that this might be put off for a considerable period, and, therefore, he regarded every day's delay of great importance. He believed, that the real obstacle to a permanent settlement of this question was the extensive prejudice with regard to it which at present prevailed in this country; and he had the strongest confidence that, as truth always ultimately prevailed, each day would diminish the objections now entertained towards a settlement, and that they would ere long come to the discussion of this question with altered feelings and under more favourable circumstances. He believed, that it would cease to be so much mixed up with party, and that all persons, in a more temperate spirit, would come to a settlement which would be more favourable to all. Therefore it was, that he was prepared to support the tithe measure then before the House, and the vote of the public money that evening. Many hon. Members might think that he had spoken too frankly upon this subject; but it was due to himself candidly to lay before the House his views and opinions; that if, hereafter, he should be called upon to act upon them, he might not then be reproached with having now disguised them.

Mr. *Hawes* said, that he was glad to hear the speech of the noble Lord, for he rejoiced that there was one Member of the Cabinet who consistently adhered to his declared opinions, and who maintained them for the same reasons which he had supported them. The question then before the House was, whether they were to force a Church upon the people of Ireland, and whether they were to grant a million of money for the purpose of adjourning the question. The noble Lord had distinctly stated, that the grant was to be made only for the purpose of adjourning the question; and he (Mr. Hawes) would appeal to the English Members and to the Scotch Members, whether they would consent to this grant for the purpose of adjourning the consideration of the difficulties into which the Peers had brought the Irish Church at the instigation of her clergy. It was impossible that for such purposes they could agree to this grant of the public money. He wished to retain the respect which he had ever felt for the noble Lord (Lord J. Russell), and he, therefore, regretted the course which he had now taken. He could never forget the great and important services which that noble Lord had rendered to the country and to the cause of reform, but in this instance he had to choose between the policy of the noble Lord's Government and his duty as a Member of that House, and he could not hesitate as to his line of conduct. He and his friends wished to make provision for the general education of the Irish people; but now they were told that Church was to be maintained for its own purposes and not for the good of the people. They were distinctly told, also, that although the Irish would take the English money, they would not cease to agitate for the annihilation of tithes; he confessed, however, that he could not agree in the morality of the hon. and learned Member, who had stated this. The hon. Member said, that the Irish would take the money, but that it would fail in the effect which it was intended to produce. Now he did not understand such a policy; he did not think that it was a course which they ought to pursue; they would not, by so doing, stop the tithe agitation; and he should, therefore, in every stage, give his opposition to this, if it were agreed to, the most profligate measure which was ever adopted. It was only by the aid of a large military force that the Irish Church was now upheld, and he must say, that he considered a Church thus supported not to be the Church of Christ, but the Church of bayonets. He understood from the noble Lord that the policy of the Government was to be changed—that the Irish policy was to be more pliable than it hitherto had been—and he much regretted it; he thought that on the appropriation clause he was struggling for a principle which, when engrafted on the minds of the people, would have led to some practical result; and, therefore, he regretted that the noble Lord had not upon the present occasion adopted an honest and straightforward course of policy. He thought, that the Irish Church ought to be pared down to what by the resolution of the House had been declared fit, the "spiritual wants of the Irish Protestants;" he would not be satisfied till that was done; and he was sure that if the Irish were actuated by similar feelings to those of the people of this country, they would not rest contented till this was accomplished. He hoped, however, that he had misunderstood the noble Lord, for anxious as he was and ever had been to support the noble Lord and her Majesty's Government, he could not support them merely as one party struggling against another; he would support them only when they were really striving for a clear and practical course of Government, from which the people of this country might derive clear, practical, and intelligible advantages.

Lord *John Russell* bore testimony to the honourable and disinterested support of the hon. Member and his friends; but he had not adopted, upon the present occasion, any new course, for the question, as he had all along stated, was, whether he should introduce the appropriation clause into the bill, when there was no probability of the bill, with this addition, becoming the law of the land; and he could not, therefore, see why the hon. Member had used towards him such harsh expressions, especially when the hon. Baronet, the Member for Devon, had brought forward his motion, and had given him (Lord John Russell) not only an opportunity of again stating his opinions, but the House the power of re-affirming the principle of appropriation.

Mr. *Langdale* thought, that a fund ought not to be appropriated to the landlords, in which there was something, in his opinion, of a sacred character. It had always been his opinion, that when a settlement of this question, which was desirable, should be adopted, the spiritual wants of the people of Ireland should be supplied; but when they were amply provided for, he was anxious that the residue should be preserved for the public for some useful purpose. Now, it appeared clear to him, that it was an appropriation to pay to the landlord 25*l.* per cent.; and he would say, it was an infinitely worse appropriation than to apply the same amount for the purposes of education, or to any other charitable purposes. He was anxious to preserve the fund, but, at the same time, he was anxious for a final settlement; and it was, because the present proposition would not effect such a settlement, because it would only temporarily heal a wound, which would afterwards break out worse, and because he believed it would not accomplish an object, which he, for one, thought it most desirable to accomplish, and for which, if it could be accomplished, he would be most willing to increase a grant, that he opposed the present motion.

Sir *B. Hall* fully concurred, in what had fallen from the two hon. Members who had preceded him, and having recorded his vote in the year 1833, when a similar resolution was before the House, against the grant of money to the clergy of Ireland, he should vote with them on the present occasion, as no argument had been advanced, and no reasons assigned why a different course should be pursued now. The noble Lord, as stated by his hon. Friend near him, had taunted some hon. Members who took a course adverse to the Government for not having expressed their objections to the grant before that evening. He must say, that he did not consider that it was very wise or very considerate, on the part of the noble Lord, to do so. He must have known, that many Members were now n the House who formed part of the Parliament of 1833; and it might naturally be supposed, that those who voted in the minority then, would take the same view of the matter now, that they did at that period. Circumstances remained the same, excepting that the people were placed in rather a worse position, because, instead of a loan of one million, they were now called upon to give up positively about 740,000*l.*, and to make another grant of the remainder of the million. But what opportunity had been afforded to make any objections? The plan was first proposed by the Gentlemen opposite on Saturday; it was agreed to by the noble Lord on the Treasury-bench, and that evening was fixed for the discussion. The earliest possible moment had been taken by them to explain their sentiments, and there was no ground for the taunt of the noble Lord below him. He rejoiced at hearing the speech of the noble Lord, the Secretary at War; he was glad that the opinions entertained in that respect were not merely entertained by the noble Lord as a Member of the Government, but that they would be placed upon record, and he trusted the time would soon arrive when those opinions would be acted upon, and form part of the policy of a Government. The policy pursued now was of a very questionable nature, and the noble Lord (Lord John Russell) had given great cause for alarm in the latter part of his speech; for he had intimated that he should adapt his course to such measures as he thought would be carried; but he hoped that the noble Lord would never give up his own opinions in deference to those of his opponents. Independent of the present resolutions, a bill had been passed in that House, whereby a municipal franchise had been granted to the people of Ireland—it was well known, that great alterations had been made in another place, and it would be too bad, if, when hon. Members had given their support to Government for the lower franchise, if they should be called upon to support the bill in its altered form according to the views of the hon. Gentlemen opposite. As regarding the present grant of money, he considered it unnecessary. It was another instalment they were called upon to make, and he believed many more would follow; and seeing no change in the position of circumstances, and retaining the same sentiments as those he recorded upon a former occasion, he should vote against the resolutions.

Mr. *C. P. Villiers* would not have risen upon the present occasion, if the Liberal Members had not been charged by the noble Lord with not expressing their opinions. He did not dread the reproaches of the noble Lord, nor the expressions of hon. Gentlemen opposite; but he was somewhat alarmed lest those who sent him to that House, or if any body of his countrymen should call upon him to explain any vote which he might give, if it were not in support of the amendment of his hon. Friend, the Member for Kilkenny. In common with many English Members, he felt, that a great debt was due to Ireland for the manner in which we had long misgoverned her; and if the noble Lord had held out any hope, that this grant would make any improvement, or form any permanent basis for a settlement, there was not a man in the House who would not have been willing to grant a much larger sum. But in the total absence of any kind of hope on this ground, he would vote with his hon. Friend against this unjust appropriation of the public money. The noble Lord had said, that the great object was, to have a practieal settlement; but this was, in his (Mr. Villiers's) opinion, a practical question; because, if it were not practical, and if he did not hope to derive benefit from it, he could not support it. If the vote had been proposed on the ground that that people were too poor, and that the occupying tenants could not pay the amount, the noble Lord might come forward with a good plea to relieve them from the amount; but if it were proposed on the ground, that the people did not object to the amount, but to the distribution, what became of the plea? The whole question turned upon this—had any hon. Member ventured to state, that the destination was not what was objected to? And when that was the ground for resisting the payment of the arrears which were due, he would ask, whether England ought to be called upon to pay them? The bill in no way provided for the better management or disposition of the tithes, and therefore he objected to it. And what answer could they give to the people of England why they voted away the 260,000*l.*, in addition to the 640,000*l.* already lent, without a prospect of benefiting Ireland, or of relieving her from any of her grievances? Was not every species of reform in England stopped for the want of money? Was not the education of the people—was not a better means of internal communication—was not an uniform rate of post—all stopped because they could not spare 100,000*l.*? And yet they were now called upon to vote away a larger amount of the public money for a useless purpose —a purpose which, if he were called upon, he would describe as one for encouraging in one party resistance to all reform in the Irish Church, and others to disobey the law. What! were they to tell the Irish, that they were to suffer nothing for resisting the law, and for refusing the payment of tithes? What a moral would they be thus inculcating; what encouragement were they giving to persons to stand in the way of reform! The Dissenters in England objected to the payment of church rates, but what would Members say, if Ireland were called upon to pay the church rates of England? What would they say, if, instead of seeking to repeal the law, the English Dissenters had refused to pay church rates, and had called upon Ireland to pay their debts? Was not this an illustration precisely in point? He had not heard any Irish Member state what he had understood, that some had avowed, that they were ready to take the English money, and still to agitate for the abolition of tithes. He did not believe, that this was the general feeling in Ireland. Such was not a morality which any one could defend. When they considered what the Dissenters in England had done under the same circumstances, he did not believe, that there was such a difference between the morality of an English Dissenter and of an Irish Catholic as to lead to such a different course of action. The English Dissenters had been offered to have the church rates charged upon the consolidated fund, but they had said, that they would not allow of this: they insisted, that church rates should be altogether abolished. But, if they had adopted the suggestion which had been made, they might have taken the money from the public fund, and still have continued to agitate for the abolition of the rates. And he was sure, that the English people would consider it a dangerous and serious violation of the security of property, and of the principles of justice, if they sanctioned this arbitrary resistance to the law.

Mr. *O'Connell* did not think, he said, that he had ever heard a more unfounded attack upon the people of Ireland than that which had just been made by the hon. Member for Wolverhampton. He might be mistaken in entertaining such an opinion respecting that attack, as he was a party in the cause. Yet he thought, that he could satisfy every reasonable person, that the whole of the attack of the hon. Member, even according to that hon. Member's own principles, was utterly unfounded. That hon. Member had said, that the people of Ireland had as much right to call upon the English people to pay their tithes, as the English people would have to call upon the people of Ireland to pay the church rates, which the Dissenters of England refused to pay. Why, the people of Ireland did not insist upon the people of England paying church rates, and therefore it would be most unjust to charge them with the payment of church rates; but the people of England, on the other hand, insisted upon the people of Ireland supporting the Protestant church in Ireland. He appealed to hon. Gentlemen on the other side, whether the people of England had not sent a great majority of Members there pledged to support the Protestant church in Ireland. He thought they were wrong in doing so. Hon. Gentlemen opposite thought, that the English people were right. There was no disputing the fact. Then what did it come to? The people of England sent their Representatives there to insist, that an overwhelming majority of Irishmen — that 6,500,000 men should pay tithes for the benefit merely of 800,000 persons. Was not this the fact — the admitted fact? And ought not, then, the people of England to pay for that? He turned then as to the morality of the thing, and asked his hon. Friend what morality or what justice could there be in the people of England sending a majority of Members there to secure, that the Church of the few should be supported by the many, and then refusing, when they were called upon, to pay for that which they themselves had wished for. The Church of the few in Ireland was an English luxury at the expense of Ireland, and it was only fair, that a little of the expense should now be borne by England. He then turned round upon them, and asked them if the people of Ireland were strong enough to maintain the Catholic Church in this country, and to appropriate to it all the revenues, tithes, and wealth now possessed by the Established Church—if the Irish were strong enough to do this, and to send bayonets to this country to uphold the Church, as the hon. Member for Lambeth had called the Irish establishment "the Church of bayonets"—and if they made the English Protestants pay tithes to the Roman Catholics, they being the one-sixteenth of the population of England—then he said, that nothing could be more just than that the people of Ireland should pay for compelling the people of England to contribute to the Church of the minority. Without meaning any personal disrespect to the hon. Member for Wolverhampton, he must say, that he regarded with infinite scorn the argument which went to show, that the English would not pay for that which they thought it was good for the Irish to pay. But it was also said the English would willingly contribute if the cure were to be radical, but they would not pay for a partial cure. They could not answer for the event. He did not tell them, that it would be a radical cure; but, then, would they not contribute some portion of their wealth, when they were about to soften and ameliorate the evil that oppressed the country. The history of the transaction appeared to be totally forgotten. Both Tories and Whigs agreed, that the system could not go on in Ireland. Both agreed, that there must be an alteration. The right hon. Baronet opposite (Sir H. Hardinge) had brought in a bill on the subject. By that it would be found, that a diminution of tithes to the amount of 25 per cent. was sanctioned by the right hon. Baronet. They might talk of injustice if thy pleased, but injustice to that extent had been sanctioned by hon. Gentlemen opposite. The present Government then accedes to that proposition. They said, that things could not remain as they were. If they refused the experiment, that was now about to be made, he asked them if they thought, that things could remain as they were? The right hon. Baronet had proposed, that the arrears should be provided for. Now, for the first time, a bill had been proposed without providing for arrears. He asked them if it would be right to have those arrears unprovided for. He could understand their opposing the Government bill altogether; but then he could not understand their opposing the only means, and the only emollient to such a measure, which gave it a chance of succeeding, or could soften its harshness and asperity. The enormous grievance of the tithe system was, that it compelled the nine-tenths to pay for the support of the Church of the one-tenth. That was the evil, that the original sin, that the original injustice; and it was to that they ought to apply the proper remedies. Seven millions of Catholics and Dissenters paid for the Church of one million—nay, not for so many, as the members of the Established Church did not exceed 800,000. They might so far degrade the Irish, that they could extinguish their resistance for a time, as they had done, when they had abominably violated the treaty of Limerick, which an hon. Baronet ventured to defend in that House, but shrunk from its defence elsewhere. After 1759 not less than seventy-four capital felonies had been placed on the statute book for resistance to tithes. For the forty years following, during the Irish Parliament, the resistance to tithes continued, and now for thirty-eight years since the Union, it had been persevered in. It had lulled for a time. They might attempt to put it down by brute force, but it would rise again. Both sides were agreed, that they ought to put an end to the existing state of things. At least they ought now to attempt the experiment; but how were they to go on with it, if they were to leave the arrears to be collected. In that case it would be impossible for them to succeed, and he did not say they would succeed, even if they paid the arrears; for the original injustice remained. The noble Lord (Howick) had spoken of the superior force and truth of Protestantism. He differed with the noble Lord as to that superiority; but then what chance had truth in making its way with the people, when it was only known, to them, as the cause of every oppression and every injustice they endured. They could not have corporations for Ireland, because they were not members of the Church; and then there was the holy alliance of corporation abuses and the truth of Protestantism. They could not defile Protestantism more than they had done, by representing it as a bayonet Church, as a taxing Church, as an exclusive Church, and as the excuse for every abuse continuing in Ireland. They who supported such a system were the apostles of anti-protestantism. He had risen merely for the purpose of protesting against the doctrine that it was to be said, that there was any immorality in their looking for that money which gave the only chance of settling the question, or of promoting conciliation. When hon. Gentlemen on his side of the House taunted Government with not following out the appropriation principle, he asked, what chance would the Ministry have of pushing the principle further than that House? No delusion, in his opinion, could be greater than that which would tell the people of Ireland, that the Ministry could carry the appropriation principle. He desired, that the present experiment should be made fairly. It might be said, that a large sum was asked for; but if not granted, would they not have to pay a larger sum for the maintenance of the army and artillery in Ireland? They must have a system of force, or of conciliation; and that of conciliation would require the smaller sacrifice from them. Were they determined by force to compel the people of Ireland to submit to the exaction in its present form? He hoped not. Were they prepared to refuse the bill? He did not think so. Were they resolved upon refusing the grant? He did not suppose so; but then, if they had faith in their own nostrum, and to make the experiment by conciliation, at length they ought to do so, and for the first time in Ireland.

The Committee divided on the original motion:—Ayes 170; Noes 61: Majority 109.

List of the AYES.

Adam, Admiral
Anson, hon. Col.
Archbold, R.
Baillie, Colonel
Baker, E.
Bannerman, E.
Baring, H. B.
Barnard, E. G.
Barrington, Lord
Bateson, Sir R.
Bellew, R. M.
Blair, J.
Blennerhassett, A.
Brabazon, Lord
Bradshaw, J.
Bridgeman, H.
Broadley, H.
Brownrigg, S,
Bruges, W. H. L.
Bryan, G.
Burrell, Sir C.
Campbell, Sir H.
Campbell, Sir J.
Carnac, Sir J. R.
Cavendish, C.
Chetwynd, Major
Childers, J. W.
Clayton, Sir W.
Clements, Lord
Coote, Sir C. H.
Corry, hon. H.
Cowper, W F.
Crawley, S.
Curry, W.
Dalmeny, Lord
Dalrymple, Sir A.
De Horsey, S. H.
Dick, Q.
Douglas, Sir C.
Duffield, T.
Dunbar, G.
East, J. B.
Eaton, R. J.
Egèrton, W. T.
Ellis, J.
Estcourt, T.
Evans, G.
Farnham, E. B.
Ferguson, Sir R.
Fitzgibbon, Colonel
Fremantle, Sir T.
French, F.
Gibson, T.
Gladstone, W. E.
Gordon, R.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grey, Sir C.
Grey, Sir G.
Grimsditch, T.
Grimston, Lord
Grimston, hon. E.
Hardinge, Sir H.
Henniker, Lord
Herbert, hon. S.
Hillsborough, Earl of
Hobhouse, Sir J.
Hobhouse, T. B.
Hodgson, R.
Hogg, J. W.
Hope, hon. C.
Hope, G. W.
Hotham, Lord
Howick, Lord
Hurst, R. H.
Hurt, F.
Hutton, R.
Ingestrie, Viscount
Inglis, Sir R. H.
James, Sir W. C.
Jermyn, Earl
Jones, T.
Kemble, H.
Kerrison, Sir E.
Kinnaird, hon. A.
Knight, H. G.
Knightley, Sir C.
Labouchere, H.
Lefevre, C. S.
Lefroy, T,
Lincoln, Earl of
Loch, J.
Lockhart, A. M.
Lowther, Lord
Lowther, J. H

Lygon, hon. Gen.
Mackenzie, T.
Mackinnon, W. A.
Macleod, R.
Macnamara, Major
Maher, J.
Martin, T. B.
Maule, hon. F.
Milnes, R. M.
Monypenny, T.
Morpeth, Lord
Murray, J. A.
Nicholl, J.
O'Brien, W. S.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Paget, Lord A.
Pakington, J. S.
Parker, J.
Parker, M.
Parker, R. T.
Parnell, Sir H.
Peel, Sir R.
Pendarves, E.
Perceval, Colonel
Philips, G. R.
Phillpots, J.
Polhill, F.
Power, J.
Pusey, P.
Rice, right hon. T. S.
Rich, H.
Richards, R.
Roche, E. B.
Roche, Sir D.
Rolfe, Sir R. M.
Rose, Sir G.
Round, J.
Rushbrooke, R.
Russell, Lord J.
Russell, Lord C.
Scarlett, hon. J. Y.
Seymour, Lord
Sheil, R. L.
Sheppard, T.
Sibthorpe, Colonel
Sinclair, Sir G.
Smith, R. V.
Somers, J. P.
Stanley, Lord
Stewart, J.
Sturt, H. C.
Sugden, Sir E.
Teignmouth, Lord
Tennant, J. E.
Thomas, Colonel H.
Thomson, C. P.
Trench, Sir F.
Troubridge, Sir E. T.
Vere, Sir C. B.
Verner, Colonel
Vigors, N. A.
Vivian, J. E.
Westenra, J. C.
White, A.
Wilmot, Sir J. E.
Wodehouse, E.
Wood, C.
Wood, Colonel T.
Wood, T.
Young, J.

TELLERS.
Steuart, R.
Stanley, E. J.

List of the Noes.

Aglionby, H. A.
Bentinck, Lord W.
Blake, M. J.
Blake, W. J.
Boldero, H. G.
Bowes, J.
Brodie, W. B.
Brotherton, J.
Browne, R. D.
Chalmers, P.
Clay, W.
Collins, W.
Craig, W. G.
Currie, R.
Dashwood, G. H.
Divett, E.
Duckworth, S.
Dundas, F.
Easthope, J.
Fielden, J.
Finch, F.
Grote, G.
Hall, Sir B.
Handley, A.
Hastie, A.
Hawes, B.
Hawkins, J. H.
Hector, C. J.
Hill, Lord A. M.
Hindley, C.
Horsman, E.
Hutt, W.
James, W.
Jervis, S.
Langdale, hon. C.
Leader, J. T.
Lushington, C.
Martin, J.
Molesworth, Sir W.
Morris, D.
Muskett, G. A.
Pattison, J.
Pechell, Captain
Philips, M.
Ponsonby, C. F.
Pryme, G.
Pryse, P.
Salwey, Colonel
Strutt, E.
Style, Sir C.
Thornely, T.
Turner, E.
Villiers, C. P.
Wallaee, R.
Warburton, H.
Ward, H. G.
Williams, W.
Williams, W. A.
Wood, Sir M.
Wood, G. W.
Worsley, Lord

TELLERS.
Harvey, D. W.
Hume, J.

House resumed.

Gibraltar Lighthouse.] On the Order of the Day being read for bringing up the Report upon the resolution relating to the erecting a lighthouse at Gibraltar,

Mr. *Hume* said, he would oppose the resolution. The object of the resolution was, to levy a toll of a shilling upon every vessel that entered Gibraltar. He thought this the most paltry legislation ever attempted in that House.

Mr. *P. Thomson* said, it was a most unheard-of thing to oppose a resolution which was merely to enable the Government to introduce a bill. He could inform the hon. Member, that the shipping interest was anxious that a lighthouse should be erected, and they were perfectly willing to pay the toll of a shilling.

Mr. *R. Wallace* said, he would oppose the resolution, and would divide the House against it, on the ground that they had not sufficient time to consider it.

Lord *Ingestrie* said, he could assure the House, that a lighthouse was very much required at Gibraltar, for the safety of the shipping.

Mr. *Hutt* had no objection to the erection of the lighthouse, but it ought to be erected and maintained out of the surplus revenue of Gibraltar.

Resolution agreed to.

Treasurer of the County of Clare.] Viscount *Morpeth* moved the third reading of the County of Clare Treasurer Bill.

Mr. *Goulburn* wished to know what were the peculiar circumstances in this case, which justified the Legislature in advancing a sum of money to the county of Clare?

Lord *Morpeth* said, that in consequence of the defalcations of the treasurer, application had been made to Government for a loan, to which application the Government had acceded, fixing the interest at four per cent.

Lord *G. Somerset* said, he could see no reason why the Legislature should interfere on behalf of the county of Clare, any more than on behalf of the parish of St. George. He thought it was setting a bad precedent.

Viscount *Morpeth* said, that there were not the same facilities in the county of Clare, as in the parish of St. George, for raising money.

The House divided:—Ayes 57; Noes 61:—Majority 4.

List of the AYES.

Adam, Admiral
Baines, E.
Bannerman, A.
Barrington, Lord
Bellew, R. M.
Bridgeman, H.
Brotherton, J.
Bruges, W. H. L.
Craig, W. G.
Curry, W.
Dalmeny, Lord
Divett, E.
Dunbar, G.
Elliot, hon. J. E.
Ferguson, Sir R.
Fleetwood, Sir P.
Hastie, A.
Hayter, W. G.
Hill, Lord A. M. C.
Hodges, T. L.
Hollond, R.
Howard, Sir R.
Hurst, R. H.
Hutt, W.
Hutton, R.
James, W.
Jones, T.
Kinnaird, hon. A.
Langdale, hon. C.
Lucas, E.
Lushington, C.
Lynch, A. H.
Macnamara, W.
Mildmay, P.
Morpeth, Lord
O'Brien, W. S.
O'Connell, M. J.
Palmer, G.
Parker, J.
Perceval, Col.
Pinney, W.
Price, Sir R.
Pryme, G.
Roche, Sir D.
Sheil, R. L.
Smith, B.
Smith, R. V.
Stanley, E. J.
Thomson, C. P.
Thornley, T.
Townley, R. G.
Verner, Col.
Vigors, N. A.
Wilshere, W.
Wood, C.
Wood, G. W.
Yates, J. A.

TELLERS.
Steuart, R
O'Ferrall, R. M.

List of the NOES.

A'Court, Capt.
Aglionby, H. A.
Baring, H. B.
Blackstone, W. S.
Blair, J.
Broadley, H.
Bruce, Lord E.
Bryan, G.
Burrell, Sir C.
Chute, W. L. W.
Clayton, Sir W.
Codrington, C. W.
Codrington, Adm.
Collins, W.
Darby, G.
Dick, Q.
Douglas, Sir C. E.
East, J. B.
Easthope, J.
Eaton, R. J.
Egerton, W. T.
Fector, J. M.
Filmer, Sir E.
Finch, F.
Forester, hon. G.
Gillon, W. D.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grimsditch, T.
Hawes, B.
Hobhouse, T. B.
Hogg, J. W.
Hope, hon. C.
Hume, J.
Kemble, H.
Knight, H. G.
Knightley, Sir C.
Lockhart, A.
Lowther, J. H.
Mackenzie, T.
Martin, J.
Monypenny, T.
Morris, D.
Neeld, J.
Parker, R. T.
Pattison, J.
Perceval, hon. G. J.
Philips, M.
Philips, G. R.
Rushbrooke, Col.
Rushout, G.
Salwey, Colonel
Sibthorp, Colonel
Sinclair, Sir G.
Somerset, Lord G.
Thomson, Alderman
Trench, Sir F.
Wallace, R.
Warburton, H.

TELLERS
Inglis, Sir R. H.
Hodgson, R.

Viscount *Morpeth* gave notice, that he should move the third reading of the bill on the next day.

Sir *G. Sinclair* protested against the course proposed by the noble Lord. The House having decidedly expressed its opinion, the bill ought not to be pressed further.

Viscount *Morpeth* said, the usual amendment, that the bill be read this day three months not having been made, it was competent to him to move, that it be read a third time to-morrow. He had given notice of his intention, thinking it fairer after what had occurred, to do so; but he might have made the motion to-morrow, as a matter of course. He could assure the House, that if this were, in any respect, a party question, he should acquiesce in the decision; but as it affected several poor road contractors in Clare, men who were in a destitute condition, he begged the House would again take it into their consideration. There were about 17,000*l.* due to these poor men, owing to the default of the treasurer, for work performed by them during the last year and a half, under the expectation that they would be punctually paid. The county was too poor to raise the money immediately, and the Government proposed to advance it on sufficient security.

Sir *J. Graham* admitted, that the money due to these poor men must be made good, but not by England, or Scotland, or Ireland, but by the county of Clare itself. Why did not the wealthier rate-payers of the county come forward, and make some arrangement. They might obtain the money on account. He did not object to the noble Lord moving the third reading of the bill to-morrow, but he should oppose the motion.

Lord *Morpeth* said, that a similar advance was made some years ago to the county of Tyrone.

* * *

HOUSE OF LORDS,

Friday, July 20, 1838.

Minutes.] Bills. Read a second time:—Conveyance of Estates.—Read a third time:—Administration of Justice (New South Wales); Vagrant Acts Amendment.

Petitions presented. By Lord Glenelg, from Carnarvon, and by the Earl of Falmouth, from a place in Cornwall, for the Abolition of Idolatrous Worship in India.—By Viscount Melbourne, from Stockport, for the reduction of the rate of Postage; and from a place in Ireland, in favour of the Poor Relief (Ireland) Bill.—By the Bishop of Glocester, from a place in his Diocese, against any further Grant to the College of Maynooth; from Honiton, North Shields, Warminster, Ottery, St. Mary's, Cambridge, Axminster, and many other places, for the Better Observance of the Sabbath; and from a place in Kent, for the Immediate Abolition of Negro Slavery.—By Lord Colchester, from the Guardians of a Poor-law Union in Sussex, against Orders to prevent Paupers from attending the Parish Church.

Established Church (Canada.)] Lord *Wharncliffe* presented a petition from the Rev. John Taylor, B.A., and rector of Woodstock, in the province of Upper Canada, complaining that the funds derived from the reserved lands in Canada, which were intended for the support of the Established Church there, had not been appropriated to that object. Much inconvenience and injury had been sustained by the Church in consequence, and the petitioner called on the Legislature to make a suitable provision for the Established Church in that country.

Lord *Glenelg* said, that the petition certainly deserved serious consideration, both on account of the high respectability of the petitioner and the importance of the subject to which it related. He felt every disposition to support and further the interests of the Established Church in Canada. If, therefore, the Government could not comply with the prayer of the petition, it did not arise from any indisposition or unwillingness on their part, but was to be attributed entirely to other and very different causes.

The Bishop of *Exeter* had not been aware, that this matter was about to be brought under their Lordships' consideration. He was, nevertheless, rejoiced, that it had been brought forward, and he was equally rejoiced at the temperate manner in which the noble Baron who presented the petition had pointed out the course which should be pursued in matters of this description by a Christian Government. This was a colony containing not less than half a million of British subjects, whose spiritual interests it would be in the highest degree criminal to neglect. It was unnecessary for him to dwell upon the great encouragement which had been given to the inhabitants of this country to emigrate to that colony. Was it to be supposed, that they were to be induced to emigrate to a land which was to be cursed, by a short-sighted policy, with an insufficiency of Christian ministers? The sworn servants of her Majesty were bound to provide for the religious instruction of her people in the remotest portion of her dominions, as well as near the seat of Government at home; and from this responsibility there was no shrinking. The noble Baron, the Secretary for the Colonies, seemed to be very desirous to shrink from that responsibility; but if such a position were once laid down, he should have no hesitation in declaring it to be one of the most dangerous doctrines that was ever put forward by a Minister of the Crown. All the responsibility rested with the noble Baron, as the head of this department; and he defied any noble Lord to refute, or even to contradict this assertion. The noble Baron who presented this petition had spoken strongly, but not more so than the occasion justified, of the necessity of having an additional bishop in Upper Canada. The noble Secretary for the Colonies admitted the importance, nay, he thought, that the noble Secretary had gone so far even as to admit the necessity of making this addition. But if this statement upon the part of the noble Secretary was sincere, why did he manifest any reluctance to pay the stipend of the bishop whom he thus admitted the necessity of appointing? Now, what was the conduct of the Government with regard to another personage, who was not a bishop of the Church of England, not a member of the Church of England, but the Roman Catholic bishop of Lower Canada? They did grant an allowance of no less than 1,000*l.* a-year to the individual who, at that time, was Roman Catholic bishop in Lower Canada. He repeated, that in spite of the determination of the Government not to continue the allowance of 3,000*l.* a-year to the successor of the Bishop of Quebec, 1,000*l.* of which he most munificently gave to the Bishop of Montreal, they did propose to Parliament, and Parliament met the proposition with assent, to give 1,000*l.* a-year to the successor of the Roman Catholic bishop of Lower Canada. It was also proposed to give to the English bishop of Quebec, not, indeed, the salary which his predecessor enjoyed, but a salary amounting to 1,000*l.* a-year. But they gave the Roman Catholic bishop the same sum which he enjoyed before, while they had done nothing to give the Protestant inhabitants of the colony two English bishops. Therefore, he would maintain, that equal justice had not been done in this case. It was true, that the Roman Catholic bishop was not allowed more by the Government than was given to the English bishop, but then he never had more. Besides this, it was well known, that the English bishop was subject to greater expenses than the Roman Catholic bishop was liable to, and he was also a father, and had a family to support. There was another point of great importance to which he wished to call the attention of their Lordships, and that was, that the Roman Catholic bishop had another 1,000*l.* a-year from the colonial revenues, granted to him by the colonial Parliament in lieu of a certain house called the Palace. At a fitting time he should call the attention of their Lordships to a most important neglect of duty on the part of a noble Earl who was not then present—he meant Lord Ripon—for when that noble Lord was at the head of the Colonial Department this bill passed the provincial Legislature, and the noble Earl, in advising his late Majesty to give the royal assent to that measure, had violated the constitutional law of 1792. The disposition of the clergy reserves was left to the consideration of the Parliament of Lower Canada, but there was no reason why, if Government had thought proper to throw this duty on the Parliament of Lower Canada, the Christian emigrants from this country should be deprived of the bread of life. Was it decent for a colonial Minister to step forward and urge such a plea? Under all these circumstances, he did hope, that some good would result from the presentation of this petition, and although it could not be expected, that the noble Baron would give any pledge on the subject, yet, he trusted, that what had been said would have some effect.

Lord *Glenelg* was understood to say, that with respect to what had fallen from the right rev. Prelate upon the responsibility of the Ministers of the Crown, he had never said, that Ministers were not responsible, because they acted upon the opinion of the Crown's law officers. All that he had said was, that after the opinion which had been given by high legal authority, Ministers were resolved to act upon it. With respect to the 1,000*l.* a-year given to the successor of the Roman Catholic bishop, the present bishop was coadjutor of the late bishop, and every one knew, that in the Roman Catholic Church the coadjutor bishop was as much a bishop, and as certain to succeed to the see, as if he were actually bishop of the see. This case, therefore, did not come within the general purview of the right rev. Prelate's argument. The Government having referred the question of the clergy reserves to the House of Assembly, was bound in common honesty to adhere to that reference. It was no difficult matter, in discussing a question of this kind, to cast out of view the most important features in the case—to disregard the relations subsisting between the colonies and the mother country—to make light of the views entertained by the Colonial Legislature, and then to take up one isolated point, and pronounce oracularly that the Government had been guilty of a dereliction of duty. If he had done otherwise than he had done, he should, indeed, have been guilty of a dereliction of duty, and on this he was ready to appeal to any tribunal under Heaven.

Lord *Wharncliffe* observed, that it appeared to him, that the nation had bound itself to establish rectories, and to furnish endowments for them in Canada. How far the Scotch Church had a right to participate with the Church of England he did not then mean to say, but he could not believe, that it would be legal to make a division of the ecclesiastical property among the different sects.

Petition laid on the table.

PLURALITIES.] The Report on the Benefices Pluralities Bill was brought up.

The Archbishop of *Canterbury* said, that considerable discussion had on a former occasion taken place as to the best mode of ascertaining the value of benefices to be held in plurality, the population of each benefice, and the distance between them, and it had been thought that the 113th section of the bill was insufficient for that purpose. He, therefore, now proposed to expunge the 113th clause, and to substitute for it four other clauses, to follow the sixth clause, which he thought would meet every objection which had been raised. We understood their purport to be, that every spiritual person applying to the Bishop for a dispensation to hold two benefices should set forth in writing the value of those benefices, or the average of those benefices, for the three years previous to the application, together with the average amount of the population of each parish during that time, and the distance at which those benefices were separated from each other. The clauses also provided that these statements were to be verified to the satisfaction of the Bishop.

The 113th clause was struck out, and the other clauses were agreed to.

The Earl of *Cawdor*, who spoke in so low a tone as to be inaudible in the gallery, proposed some amendments, the object of which, as far as we could collect it, seemed to be the abolition of sinecure rectories with a view to their appropriation to the increase of small livings, and also the union of small parishes to large ones adjoining. He had in his own gift a parish which contained only seventy-seven inhabitants, which he wished to see united to a neighbouring living. The amendments which he proposed were in conformity with the recommendations of the Ecclesiastical Commissioners.

Amendments were ordered to be printed and considered on the third reading. Report received.

HOUSE OF COMMONS,

Friday, July 20, 1838.

Minutes.] Bills. Read a first time:—Sale of Spirits Licences by Retail Act Suspension.—Read a second time:—Arms (Ireland); and Gunpowder (Ireland).—Read a third time:—Fisheries (Ireland); Fines and Recognizances (Ireland); Loan Societies (Ireland); and Public Records.

Petitions presented. By Mr. E. Tennent, from the Wesleyan Methodists of Belfast, by Mr. J. H. Lowther, Mr. Briscoe, Mr. Etwall, Sir F. Trench, Mr. W. O. Stanley, and Mr. J. Parker, several petitions, from various places, to put an end to Idolatry in India.—By Sir E. Wilmot, from Guardians of the Poor of the Union of Perchard, complaining of an Order not to allow the poor to attend the Parish Church.—By Mr. Young, from Spirit Dealers of Cavan, complaining of Grievances.—By Mr. Fielden, several, from places in the North of England, praying for a Ten Hours Factory Bill.—By Mr. Gillon, from several Postmasters, complaining of the pressure of the Post-horse Duties.—By Sir D. Roche, from the Distillers and Spirit Dealers of Limerick, against the Spirit Licence Act in Ireland.—By Mr. G. Palmer, from the Marshal, and other Officers of the Palace Court, against the Imprisonment for Debt Abolition Bill, and praying for Compensation.—By Viscount Sandon, from the Corporation of Liverpool, against certain Clauses in the Imprisonment for Debt Abolition Bill; from the Bolton and Leeds Railway Company, against the Mails on Railways Bill.

Hill Coolies.] Sir *J. Graham* wished to know whether her Majesty's Government had made up their minds as to the course which they intended to pursue with regard to the East-India Labourers' Bill.

Sir *G. Grey* said, that the bill as it came from the Lords was in its details open to objections. In some cases certainly the bill would act as a prohibition, but in others it would amount to a legal sanction, and on the whole it would not effect the purpose for which it was intended; he therefore proposed to discharge the order, on the understanding that the Indian Government would prevent the emigration of labourers to the West Indies until there should be time for a full investigation of all the circumstances. It was most necessary that contracts should be put an end to, or rather the practice of making contracts should be stopped, when one class of the contracting parties were not aware of the position in which they were placing themselves. His right hon. Friend, the President of the Board of Control, was prepared to state that the prohibition could be enforced for a time, and arrangements could be made to render invalid any contracts not effected in the colony in which the labourer intended to settle, and not made with the sanction of a stipendiary magistrate.

Sir *R. Peel* desired to know if the hon. Baronet opposite was enabled to state that the Governor in Council did possess authority to prohibit the emigration of natives of the East Indies. If a person calling himself an agent were about to send 100 or 150 of them to the West Indies, could the governor prevent that?

Sir *G. Grey* observed, that the bill on the Table of the House was confined to emigration under contracts—that was the subject-matter on which the bill would operate. With regard to the powers possessed by the Governor-general, it was a matter to which his right hon. Friend, the President of the Board of Control had turned his attention, and when called upon he would give the House any information that might be required.

Sir *R. Peel* observed, that the Session had now considerably advanced. If the East-India Labourers' Bill were dropped, it would be necessary to have security given that for two years emigration should be prohibited. He should be content with two years as that would give time for mature consideration as to whether prohibition ought to be made permanent. What he wished to impress on the House was, that they should not consent to drop the bill without the certainty that the Governor in Council did possess the power to prohibit emigration. If there remained a doubt on the subject, he for one must require that the bill be passed, for the question was one of the greatest importance.

Sir *G. Grey* agreed with the right hon. Baronet, that if any doubt existed it ought to be removed, all he wished to do was to avoid pledging himself at present.

Subject dropped.

CHILDREN IN FACTORIES.] Lord *Ashley* (on the question that the House do resolve itself into a Committee of Supply) said, that he felt exceedingly sorry to interfere with the order of the day, and he felt himself most reluctantly driven to adopt that course; he had made every effort to avoid it, but the House must be aware that those efforts had been made in vain. Nothing, then, remained for him but to bring the question forward on the present occasion. In doing this he felt that at least his was a perfectly constitutional course, and from that course he had resolved not to swerve until he should obtain from the Queen's Government a full, final, and decisive answer. Were he capable of doing otherwise, his sincerity might reasonably be suspected after the many pledges he had given on the subject, and he trusted, that in discharging this important duty, he should prove how unfair it was to designate the excitement which prevailed on this subject as unjust agitation. According to returns made up to the year 1835, it appeared that the number of persons manually engaged in cotton mills amounted to 354,684; of course the numbers directly and indirectly interested in the cotton trade greatly exceeded that amount. From the able pamphlet of Mr. Gregg, he learned that not fewer than 4,000,000 persons were interested in the manufacture of cotton. From the statement which he intended to lay before the House he hoped to be able to show that the question was one not only of importance to the manufacturing districts, but of great moment to the country at large. Of the 354,684 persons manually engaged in cotton mills, 196,385 were females, being about fifty-five per cent of the population drawn from their domestic duties and occupations. Since the year 1816, eighty surgeons and physicians had deposed to the cruel and alarming oppression to which factory children were exposed. This evidence he need hardly add was confirmed by the medical commissioners appointed in 1833. When a bill regulating the labour of children in factories was brought in in the year 1816, statements were made respecting their condition in 1815, whence it appeared that the length which a child travelled in a single day was eight and a quarter miles. In the year 1832, the quantity they travelled daily was twenty-five miles. This was admitted with respect to the mill of the hon. Member for Oldham himself, a mill which did not work at such high speed as others; in some the length travelled per day amounted to thirty miles, being a severity of labour exceeding that imposed upon soldiers in forced marches, a fact established by the calculations of Mr. Guthrie. The consequences of this cruel labour were apparent in the returns relating to mortality in the manufacturing districts; this was an issue as to matters of fact, and he had spared no pains to establish his facts on grounds which could not be shaken: his calculations he had submitted to the most careful investigation; they had been examined by one of the first actuaries in England or perhaps in Europe, who had gone through them with the greatest accuracy and patience. The result on which he staked his credit was, that "in those districts where the factory system extensively prevailed, as many persons died under twenty years of age, as under forty in any other part of England." Not many days ago a document was transmitted to him from Mr. William Pare, the superintendent-registrar in Birmingham, which drew a comparison between the mortality of that town and Manchester. He had submitted it, lest there should be some mistake, to the same actuary, and the result was, that "in Birmingham one half of the population attained their sixteenth year, while in Manchester one half died within the first three years. From the several comparisons which had been instituted, it appeared that the value of human life was much greater in Birmingham than in Manchester, arising in part, no doubt, from the superiority of its geographical position, but mainly from the superior nature of the employment, and the better habits of the working people." So much for their bodies; what was the state of their minds? No less than sixty clergymen, either by documents or in person, had declared the vicious and awful condition of those districts, and the utter hopelessness of any efforts to impart to people engaged in factory-labour anything like moral or religious instruction. In 1835, a petition was presented from 200 Sunday-school teachers, declaring that it was quite impossible, even on the Sabbath-day, to convey to their minds, being in so wearied and exhausted a state, any religious or moral instruction whatever. He would quote several extracts from the evidence given before the committee by Mr. Sheriff Allison, of Glasgow:—Mr. Sheriff Allison said,

> "I would recommend that the hours of employment of workmen should be peremptorily fixed at ten hours a-day. I am quite sure that this would have the best possible effect, both upon the spinners, and in particular upon the piecers and the factory children; and I am quite sure it is the only thing that can possibly be done which will ever remedy the evils to which the inferior class of labourers connected with cotton factories are exposed."

When asked whether he considered "this mitigation of labour as a *sine quâ non* with respect to any improvement of the manufacturing population,"

> "I think," he said, "it is decidedly; I am quite sure, that all attempts to improve the condition of the factory children would be nugatory without it."

And he added in answer to this question,

> "Do you see any means whatever of securing the peace and the happiness of those people, and the peace and happiness of the empire, except by giving to the children both the time and the means of a moral and religious education?"
>
> "I think not; unless they can get the means of moral and religious education, and time for it, and unless the habits of moral depravity, which now overspread the skilled classes from the operation of those combinations, are removed, I am perfectly certain that the existence of the British empire will be overthrown, that the moral pestilence will overturn entirely the social state of the country, and I see already around me every day in Glasgow that we are just to be considered as standing at the gate of the great pest-house. I see the labouring classes depraving to an extent under my eyes which I cannot find language sufficiently strong to impress the committee with."

This was neither more nor less than an ample fulfilment of the prophecy uttered before a Committee of the House of Commons in 1816, by the late Sir Robert Peel, when giving evidence in support of a bill to limit the hours of factory labour.

> "Such indiscriminate and unlimited employment of the poor, he said, will be attended with effects to the rising generation so serious and alarming, that I cannot contemplate them without dismay; and thus that great effort of British ingenuity, whereby the machinery of our manufactures has been brought to such perfection, instead of being a blessing to the nation, will be converted into the bitterest curse.

Did the noble Lord opposite, then, think that this question was to be evaded? Did he believe matters of this kind could be forgotten by the people because they were not listened to with attention in that House? It was utterly impossible. The evil was increasing daily and hourly; and unless they addressed themselves to it speedily and effectively, it would assume a magnitude which they would never be able to master. It was not his business to enter into any statement of the comparative merits of the ten or twelve hours bill; but looking to the measure which had been introduced and passed by the present Government, he did require a full and final answer as to their intentions with respect to it. If it were good, let them enforce it; if bad, let them mend it; if it were unnecessary or dangerous, let them repeal it. But to leave the law in its present condition was equally unwise and absurd. It not only withheld just protection from the factory children, but by pretending to do so deprived them of the sympathy of a deluded public. In 1833 he introduced a measure nominally called the Ten Hours Bill; it met with great support in the country, upwards of 100,000 persons having signed petitions in its favour. The Government then felt something must be done, and they introduced a bill which was substituted for his on the ground of its superior humanity and higher moral pretensions. In particular it enacted, that no children under eight should be employed in factories at all, and that those above that age, and under thirteen, should be worked only forty-eight hours a-week. Those who employed the children were also compelled to give them two hours of instruction every week. Such were the provision by which the sympathy of the public and the support of that House had been obtained to the defeat of his own bill; but those were the very clauses that were the first to be violated, and violated they had been to the present day. The noble Lord and his colleagues were perfectly aware of those violations of the law, and yet they connived at them. [Lord *J. Russell*, No, no.] Would the noble Lord say, that he was not aware that the educational clauses of his own Act had been set at nought in almost every factory in the country? Had the Government been left in ignorance of the effect of their own bill?—had they been left in the belief that it was carried into effect, and generally or even partially obeyed throughout the populous districts? In August 1834, seven months after it came into operation, Mr. Rickards, who had charge of the great manufacturing district in Lancashire, reported, that unless an effective system of check and control were adopted, the execution of the law must depend on the will of individual millowners; that the grossest abuses must prevail, the act itself become a standing jest, and the situation of inspector perfectly useless. He was anxious to state the whole of his case, not from private documents, not from individual reasonings, but from the official statements of inspectors appointed by the Government to carry the act into operation, and who made their reports to the noble lord the Secretary of State for the Home Department four times every year. He would undertake to show from those reports, and from them exclusively, that the act had been systematically violated from the time when it passed till the present day, and that, notwithstanding the urgent representations and remonstrances of their own inspectors, the Government had done nothing whatever to assist them in the discharge of their duties. Mr. Howell said "The utter impracticability of the education clauses is so obvious that, should this matter be hereafter called in question, I trust, I shall stand excused for dispensing with it altogether." Such was the fate of the principal of those clauses, on the strength of which Ministers had been enabled to reject this bill. In a joint report of the inspectors in the same year it was stated, that unless the superintendents had power to enter the mills whenever they pleased, the act itself would become a dead letter. In 1835 Mr. Rickards said, "I have repeatedly urged in former reports, and still beg to repeat to your Lordship, that it is essential to the efficiency of the act that the superintendents should be empowered to enter the mill from time to time, as they may think proper." Yet nothing whatever had been done to assist the inspectors in that respect. Delay was the most convenient course of policy which the noble Lord could follow, and delay there had been enough. Had the act in 1836 and 1837 been better observed? Did the inspectors discover any further inherent power in the act to enable them to carry it into effect without the interference of the Legislature? During the whole of that time Mr. Horner and Mr. Howell were still loud in their remonstrances. The former, in 1837, said with great emphasis, at the end of his report, "I cannot omit to lay again before your Lordship (the Secretary for the Home department) my firm conviction that an alteration in the law as regards the age of the children is absolutely necessary, in order to carry into effect the intention of the Legislature—that no child under thirteen shall work more than forty-eight hours a-week. In many instances children under eleven work twelve hours a-day." In 1838 Mr. Horner reported—"I must again state, that the protection afforded to children under thirteen is very incomplete, owing to the defective nature of the act." The noble Lord might perhaps say, that within the last two or three weeks he had received communications from the manufacturing districts, which proved that the law was now better observed; but was that a state of things to be endured, merely because persons chose to conform to it, the act itself being totally inoperative? If that House were to sit for twelve months, and if he were allowed to bring the matter forward every week, he had no doubt that the law would be observed; but whenever Parliament was prorogued, every abuse and licence would recommence. He was not inclined to say anything in disparagement of the inspectors or superintendents, whose zeal and diligence were certainly greater than their powers, and who had, no doubt, great difficulties to contend with; but the inspectors being excluded from the mills, they all agreed in representing the total worthlessness and inefficiency of the act. By clause thirty-one, magistrates had the power to mitigate the penalties which were imposed on convictions under the act, and to what extent had they been carried? Absolutely to neutralize the law. What was the forcible language of Mr. Horner upon this part of the subject, in his report of October last? He said, "The extent to which those mitigations had been carried would tend rather to increase than check the future violations of the law. The disreputable millowner, who is regardless of the discredit of a prosecution for violating the law, solely made for the protection of helpless children, looks only to the amount of the penalty imposed on his neighbours, and finds on casting up the account that it is far more profitable to disobey than to observe the act." After these representations of the state of the law made by his own inspectors, how could the noble Lord opposite reconcile it with his conscience as an individual, and with his public duty as a Minister of the Crown, during the whole course of his administration, never to have brought forward any measure for the removal of so tremendous an evil? From a return now made periodically to that House, it appeared that between the 1st of May, 1836, and the 1st of January, 1837, there were 822 convictions, more than one-half of which were for the grievous offence of overworking the children, and working them without surgeon's certificates. The average amount of penalties was 2*l.* 5*s.* Between the years 1837 and 1838 the number of convictions was 800; and, whilst on this subject, he would just, in passing, say a word or two in reply to an observation which had been made to him by the Under Secretary of State for the Home Department the last time it was discussed—namely, that there had been an abatement in the number of convictions during the last year. It was true, that during the first quarter of the year there was some abatement; but the aggregate for the whole year was 800, being only an abatement of 20. "I cannot ascribe this," said one of the inspectors, "to any increased willingness to obey, or to any increased alacrity to enforce, the law; but I ascribe it to the difficulty of the times, and to the inclination which the millowners in consequence feel to throw a number of children out of work." What did the House think was the average amount of penalties during the last year? He had already stated, that in the year 1836 the average amount was 2*l.* 5*s.* Last year the average amount was only 1*l.* 10*s.* Could the House, then, doubt that it was far more profitable for a millowner to disobey than to obey the law, when he told them that a millowner had only to pay a penalty of 1*l.* 10*s.* for a gross violation of the law, although he gained far more than that sum by the hours during which he overworked a child, and when, in case of his over-working 100 children at once, it was only considered as a single offence, and the highest penalty that could be inflicted on him for it did not amount to more than 2*s.* 6*d.* a-head for each child? He had no hesitation in affirming, that a merciless griping ruffian would gain more than 500 times the amount of such a penalty during the hours he overworked these unfortunate children. Now, the amount of these convictions was taken from the returns for England only; but was it to be supposed, that this amount was the full amount of offences committed against this act in Great Britain, because the inspector for Scotland, Mr. Stuart, contrary to the evidence of the sheriff of Lanarkshire, contrary to the evidence of many respectable gentlemen, and contrary even to common sense, had sent in a return of "*nil*" for Scotland, or in other words, had stated that through all Scotland not one offence had been committed against this Act? Let it be observed, too, that the number of convictions was no index to the number of offences committed. First of all, there was the difficulty of detecting the offences; next there was the difficulty of procuring evidence; then no offence could be prosecuted to conviction unless it were brought within 14 days of its commission to the notice of the inspector. [So at least we understood the noble Lord, but from the failure of his voice the remainder of his speech was very indistinctly heard in the gallery, and parts of it were quite inaudible.] How, then, could one third of the offences against this act ever be brought to light? The inspectors themselves declared the thing to be impossible. But the House might perhaps, be desirous to see how these penalties had been remitted and adjudicated upon. Before, however, he came to that part of the subject, let him state the reasons why the spirit of this law had evaporated until it had become a mere *corpus mortuum.* The fact was, that the millowners sat on the bench, and adjudicated in their own cases. There were, undoubtedly, exceptions to that position, bright and honourable exceptions, some of them Members of that House, who did not concur with him in opinion upon this question. It was only right to state, that he had heard nothing but commendation of the manner in which the mills of the hon. Member for Derby, Mr. Strutt, were managed. But that he might not be considered as aspersing a large class of men without cause, he begged to read a few extracts from the valuable report he then held in his hand. Mr. Howell having said, that the magistrates gave certificates in a mass, proceeded to add, "As if to exemplify the futility of the countersigning of the magistrates as a check on the certificates of the surgeon, cases have in my district occurred in which the manufacturer being a magistrate has countersigned the certificates for his own factory, and two magistrates, being both millowners in the same town, have reciprocated civilities in this manner for each other to a considerable extent." The noble Lord read an extract from a report of Mr. Horner, of which the substance was as follows:—"I have had in my district millowners trying cases as magistrates against other millowners residing in the same town with themselves. I had one instance of a millowner sitting as a magistrate on an information presented against his own sons, as tenants of a mill of which he was the proprietor." Mr. Horner also added that another millowner had adjudicated upon an information filed against his own brother, and that in all these cases the magistrates had awarded the lowest penalties which the law enabled them to impose, and, that too in cases where the penalties were inflicted for a second, and even a third offence. And now let the House bear in mind that all this sad state of things had arisen from the measures proposed and carried by Her Majesty's Government; for, by Sir John Hobhouse's act, which the existing act repealed, it was enacted that no magistrate being concerned by himself or his relatives in mills should be allowed to adjudicate on points of factory law. As the House might wish to see how the existing law operated, he would mention a case which he had taken out of the report, and which if quoted incorrectly could be immediately set right by hon. Gentlemen who had read it, and were therefore qualified to contradict him. On the 10th of December, 1836, an information was laid against a millowner. The resistance to that information and the manner in which the magistrates dealt with it, appeared to Mr. Horner to be so flagrant, as to require him to make a special report upon it to Government. He had selected three out of the many charges which were preferred against this millowner. The first was for employing 29 young children more than nine hours a day. The second was for employing 24 children without surgeons' certificates, which was in point of fact a confession that they were overworked. The third was for employing 22 children more than 12 hours a-day. Before whom was this information tried? Before three magistrates all interested in mills. What was the amount of the penalties which the magistrates could have imposed on this millowner, had they awarded them to the full extent of the law? The full amount would have been 160*l.* What was the amount of penalties actually awarded? Would the House believe him when he stated that, notwithstanding this was a most flagrant case, and notwithstanding the great profits which the magistrates knew that the millowner must have derived by his merciless conduct to these poor children, the penalties, which might have been extended to 160*l.*, had the magistrates put the law fully into execution, were reduced down to 17*l.*, which was not more than the result of ten minutes' labour of those children, whom he had unmercifully overworked for several hours? And this was the way in which the present Act was carried into effect! Now, let the House see whether there was the same caution exhibited with respect to other parts of this Act. Since the period this Act was brought into operation, the whole amount of the penalties levied was 4,422*l.*; but, in consequence of certain regulations made by the inspectors themselves, every child taking out a certificate was obliged to pay sixpence for it, as a sort of remuneration for the trouble of writing it. Now, what sum did the House think had been levied in this manner upon the wages of all children under fourteen years of age since the passing of the Factory Act? A sum not much under 12,000*l.* And this for a certificate which, so far from giving protection to the child, only gave impunity to the aggressor upon its hours of comfort and repose. If this certificate gave any protection to the child, he should not complain of this tax levied upon it; but when this certificate—for which the child was compelled to pay—was put into the master's hand, and was used by him as a shield to protect himself from any conviction under this Act, he must say, that the law was at once ridiculous and tyrannical. Was it then surprising, that there should be discontent and dissatisfaction among the operatives in the manufacturing districts, when they saw that the law which had been passed for the protection of young children was daily violated, not only with impunity, but also with the most unblushing effrontery? Could the House be surprised that these men thought, that it was inclined to legislate for the richer in opposition to the poorer classes, and that, as a necessary consequence, they held in equal contempt the makers of the law, the administrators of the law, and the law itself? With respect to the education clauses, he would say but little; for it was universally confessed, that they were not observed in one mill out of fifty, and, where they were observed, "there," said Mr. Horner, "the schooling given is a mere mockery of instruction." And yet would the noble Lord opposite venture to say, that the education of the manufacturing classes was a matter of indifference to the country at large? Would he refuse to attend to the language of his own inspector, Mr. Horner, who said, that vice and ignorance, and their natural consequences, misery and suffering, were rife among the population of these districts? The bill which the noble Lord had himself introduced, and had afterwards withdrawn, on this subject, acknowledged the defects of the existing law. *Habes confitentem reum.* If, then, the noble Lord admitted the existence of these defects, it was unnecessary for him to point out where the new law, had it passed through Parliament, would have amended the defects of the old. He was anxious that that bill should have become law, because, if it had had no other effect, it would have given force to the Act now in the statute book, and, though it was not by any means all that he desired, yet it would have conferred, had it been properly and honestly carried into execution, great benefit on the younger classes in the manufacturing districts. It would have limited the hours of their labour, it would have provided education for them, and it would have given them a knowledge of their rights as men, and of their duties as Christians. But the noble Lord opposite had thought right to withdraw it. Had that bill been converted into law, a year, which was now to be passed in vice, ignorance, and suffering, might have been given to the commercial, moral, and religious education of the manufacturing population. The noble Lord, however, had his reasons for leaving the law as it stood at present. For his own part, he thought, that to leave the law in its present state, was unjust to the children, whom you consigned by it to oppression—to the honest mill-owner, who was anxious to conform to it, and who was defrauded by those who did not—to the dishonest mill-owner, whom you tempted and encouraged to violate its enactments—unjust to the law itself, which you know will be violated, and violated with impunity—and unjust to the Executive Government, which was responsible for all maladministration of the law. Some time ago, he had brought before the House the course which, in his opinion, it ought to adopt on this subject. He would not weary the House by repeating what he had then said; but to one of the points then urged by her Majesty's Government in their own defence, he must briefly advert, as showing the *animus* by which they were influenced. In the year 1836, the Government brought in a bill not to amend the existing law, but to repeal one of its best provisions, which secured to the child of not more than twelve years of age, immunity from twelve hours labour. That bill, having been carried on the second reading by a majority of two only, was withdrawn by the Government, in deference to the sense then expressed by the House, the Government giving, at the same time, both by speech and in writing, a most solemn pledge, that the existing Act should be rigorously and speedily enforced. How had the Government redeemed that most solemn pledge? By an immediate and monstrous violation of the law. [*Laughter from Lord John Russell.*] The noble Lord laughed. [Lord John Russell, "It is so absurd."] The noble Lord might think so, but he fancied that the House would be disposed to agree with him, when they heard the statement which he was about to make. Shortly after that pledge was given, there came out a letter from Mr. Inspector Horner, addressed to all the surgeons in his district. Here let him explain, that before a child could be allowed to work twelve hours a-day, a certificate from a surgeon must be given in proof that the child had attained thirteen years of age; and, therefore, when the noble Lord stated, that the Act would be rigorously enforced for the future, the country expected, that it would be immediately carried out. Mr. Horner's letter, which the noble Lord read, contained instructions to the different surgeons how they were to grant certificates, and what they were to consider as fitness for twelve hours' labour. The surgeons were told, that they were not to ask a question as to the age. "If you find," said the letter-writer, "a child not more than twelve years of age, with such an unusual degree of development, as to have the appearance of thirteen years of age, you will be justified in inserting the word 'thirteen' in the certificate." So that, although they knew the child to be twelve, yet if they found an unusual degree of development, they would be justified in inserting the word thirteen. The document then proceeded to define the writer's notion of this unusual degree of development, which was, that no child who had attained the height of 4 feet 3½ inches, should be considered less than thirteen years of age. The surgeon was then to give the child a certificate, in proof of its having attained the age of thirteen, for so the act required, [Lord *J. Russell*—" Read the clause."] He might have made a legal mistake as to the construction of the act, but the language of the clause was, " That no young person or child shall be allowed to work more than 12 hours a-day, without first requiring and receiving from such person a certificate in proof that such child is above the age of thirteen." Then was formed to meet this clause, the regulation he had mentioned, that any child who had attained the height of 4 feet 3½ inches should be held to be thirteen. Was it possible the noble Lord could think that this regulation carried out the spirit of the act? Was he not aware that such an order must have the effect of setting completely at nought its provisions? If he wanted any motive to assign for it, he could find it in certain facts that he would lay before the House. When the order in question was issued, his hon. Friend the Member for Oldham had taken the measurements of all the children in his own mill, and what was the result? That out of 103 children then in his service between the ages of nine and thirteen, 57 were found to be at or to exceed the height of 4 feet 3½ inches. He also procured the measurements of the children in another mill, and found that out of 318 between the ages of nine and thirteen, 71 were at the height of 4 feet 3½ inches, or above it, 2 of whom were between nine and ten years of age, 15 between ten and 11, 45 between eleven and twelve, and 9 between twelve and thirteen. By this regulation, 40, or perhaps nearly 50 per cent., of the children who enjoyed the benefit of the act passed for their protection in working only eight hours a day, according to its merciful provisions, were at once transferred to a servitude of 12 hours duration. Thus had the merciful intentions of the House for the protection of these children of ten years been carried out. Thus had the pledge of the Government been redeemed. What remedy had been applied? Had the noble Lord the moment he heard of this great grievance proceeded instantly to remove it? Representations on the subject were made to him, memorials were transmitted to him, but nothing was done. When the House met, indeed, and he gave notice of his intention to bring the subject before it, then, and not till then, was there shown an ample readiness to investigate the complaints. November, December, January, and February, passed away without anything being done to cancel the regulation or give effect to the spirit of the act. But when he had given notice of a motion, he received a letter from the noble Lord opposite, stating that he had submitted the regulation to the law officers of the Crown, who declared that it did not come within the provisions of the act, and that it must be cancelled. Cancelled accordingly it was, but could they cancel the effects of it? That the noble Lord must know to be impossible, till an act was passed to remedy the abuses at present perpetrated. Could a single instance be named, in which a child transferred under this regulation from a labour of 8 hours duration to one of 12, was brought back to its former condition when it was cancelled? Mr. Howell, the inspector, stated, that on inspecting several of the cotton mills, he found children working as thirteen years old, who not only were, but appeared to be, under that age. The order was made in 1836; it was cancelled in March, 1837, but not till it had produced the most frightful abuses. Mr. Horner, writing in March, 1837, stated, that from the great imperfection of the act in all that related to the determination of the age of the children, it was impossible for the inspectors to check the most palpable frauds. He was fully persuaded that one half of the children now working under a surgeon's certificate that they were thirteen years old were, in fact, not more than twelve, and many not more than eleven. Mr. Horner added, that "until the defects inherent in this part of the law were remedied, the object of the law would, to a great extent, be defeated." Yet the opinion of Mr. Horner, a man of great ability and experience, was treated with supreme contempt. He thought it would have been more becoming if the noble Lord, fortified by this opinion, had called for additional powers for the protection of the children, or had at least introduced into the bill brought in during the present session, provisions for increasing the amount of the penalties leviable, and for preventing interested magistrates from sitting on the Bench. That bill had been laid aside, he believed, on pretence of the indisposition of the Under-Secretary for the Home Department; but the House had been sitting for eight months, and during all the time, from November till the 7th of May, which was the day fixed for the second reading, that hon. Gentleman was in his place, and perfectly able to attend to the progress of the measure. The excuse of illness, therefore, would not do, and it was besides inadmissible on another ground, for it was not to be tolerated that the passing of a useful measure should be impeded by the illness of any functionary, however efficiently he might discharge his duty. Thus had a great measure, closely affecting the temporal and eternal welfare of so vast a portion of the population, been set aside and treated like a turnpike bill. But the noble Lord might be assured that the people of this country had too much humanity, and that he who had humbly undertaken the subject, was too strongly determined to obtain justice, to allow the matter to rest in its present state. The interest which this question excited was not confined to England; it had extended to France, where it had been discussed in the Chamber of Deputies, and had engaged the eloquent pens of some of the ablest writers of the country, Mr. Sismondi and others, who had not disdained to support the cause of the helpless innocents for whom he pleaded. He had received within the last fortnight a communication from France, requesting him to join in a general society to wipe out this blot from the civilization of Christian Europe, in the propriety of which he heartily concurred. He had hoped that this country would have been the first to set the example of such an association, and he felt ashamed that another country, possessing advantages so much inferior should have anticipated it in setting on foot a general scheme for the amelioration of the condition of infant labourers. This was an evil, that was daily on the increase, and was yet unremedied, though one-fifth part of the time the House had given to the settlement of the question of negro slavery, would have been sufficient to provide a remedy. When that House in its wisdom and mercy, decided that forty-five hours in a week was a term of labour long enough for an adult negro, he thought it would not have been unbecoming that spirit of lenity if they had considered whether sixty-nine hours a-week were not too many for the children of the British empire. In the appeal he had now made he had asked nothing unreasonable, he had merely asked for an affirmation of a principle they had already recognized. He wanted them to decide whether they would amend, or repeal, or enforce the Act now in existence; but if they would do none of these things, if they continued idly indifferent, and obstinately shut their eyes to this great and growing evil, if they were careless of the growth of an immense population, plunged in ignorance and vice, which neither feared God nor regarded man, then he warned them, that they must be prepared for the very worst result, that could befall a nation. Then would that great and terrible denunciation pronounced by a prophet of old, have a second fulfilment:—"The spoiler shall come upon every city, and no city shall escape; the valley also shall perish, and the plain shall be destroyed, as the Lord hath spoken." The noble Lord concluded by moving a resolution—"That this House deeply regrets, that the law affecting the regulation of the labour of children in factories, having been found imperfect and ineffective to the purpose for which it was passed, has been suffered to continue so long without any amendment."

Mr. *Fox Maule* said, that in answering the speech of the noble Lord he should have no occasion to pass those limits for restraining himself within which the noble Lord was remarkable; but he must be permitted to say, that the noble Lord's speech exhibited a highly-drawn, and, he thought, unnecessarily highly-drawn, picture of what the noble Lord called the misery in which the factory children of this country lived. The noble Lord had stated, that he did not intend to enter on the question of a ten hours or an eight hours bill; but the House could not doubt, that a great portion of what fell from the noble Lord was advanced indirectly in support of a principle the noble Lord had steadily advocated—the curtailment of the hours of labour. Now, the question before the House, appeared to him to be whether the House had acted expediently or otherwise in foregoing the consideration during the present Session of a measure certainly not tending in any way to alter the duration of labour in factories, but simply to amend and make more effectual an act which was admittedly inadequate in its present state, to carry out the intentions of the House in framing it. The noble Lord had dwelt on the unhealthy nature of labour in factories, and had compared the mortality of Manchester, with that of Birmingham, but he had omitted to state, that one of the inspectors distinctly asserted, that there were grounds for the increase of mortality in Manchester no way connected with factory labour, but proceeding from the pernicious system, on which the residences of those individuals whose lot it was to undergo this labour were constructed. If there had been a proper building Act in Manchester, or a proper supervision of the residences of these poor beings, much of the mortality that had occurred might have been avoided, and he must say, it was unfair to attribute to the operation of factory labour, effects which were clearly attributable to other causes. But the noble Lord would have the House suppose, that factory labour was of all others most injurious to vitality, that those who worked in mines or those who were engaged in any deleterious manufacture were better off. Now, he was ready to admit, that without protection the lot of the factory children would be one which was not only not enviable, but one which ought not to be permitted to exist in a religious and moral country. But he did not admit, that the Government to which he had the honour to belong, were indifferent about putting in practice the law, and enforcing, as far as was possible, its penalties. The noble Lord had said, that the object of Government was to stifle all complaints on this subject. Now, the noble Lord must have known, that in saying this, he was misrepresenting the conduct of Government. The noble Lord at the head of the Home Department had always declared, whenever the subject of factories was before the House, that his object was to carry the law fully into operation for the protection of the children in factories. The noble Lord who had just spoken must know, too, how much had been done to effect improvements in the manner in which the law was carried into operation; he must know, further, that a bill had been introduced this Session into that House for effecting various improvements upon the existing law, and that it had only been withdrawn from the pressure of business, with a distinct understanding, that it would be again introduced next Session. The noble Lord asked, what were the intentions of Government with respect to the existing law. Why, the intentions of Government were manifested by introducing the bill he had mentioned, for the improvement of the present law, which, he repeated, was withdrawn only in consequence of the pressure of public matters. That bill, which was introduced in April last, was, he believed, satisfactory to the House generally. The noble Lord himself had admitted, that, though he had some objections to parts of it, the measure contained much good; and from what fell from the noble Lord on this subject, he concluded, that in the noble Lord's opinion, the measure was satisfactory to the House. Now with respect to the educating clauses of the bill. The noble Lord had quoted Mr. Horner's opinion on those clauses; but to show the noble Lord the difficulties which presented themselves when the bill came to be printed and laid before the public, he would mention a single one, and that not the least of those difficulties. It was this—that when we required, that the children should be taught to read before being sent into the factories, Mr. Horner was the first to tell us, that the present system was working remarkably well, and that it would be dangerous to throw the *onus* of educating the children on the parents, instead of those who employed those parents. With respect to what took place out of doors on this subject in the course of the year 1834, he was only informed from Mr. Rickard's reports; but from those reports it appeared, that within seven months of the completion of the Act of that year, such was its nature that it could not possibly be carried into execution. Now, he believed that might be traced to the interference of others than the House of Commons. He believed, that the shape in which that Act passed was very different from that in which it left that House in the first instance; especially, and most materially, in so much of it as admitted magistrates to sit to adjudicate in cases wherein they were personally concerned. There were other points besides this, and on the whole he was quite ready to admit, that there were many parts of the act which required amendment. The reports of the inspectors of factories since 1834 were all to this effect—that the law required amendment in order to adapt it to carry out the intention of the House of Commons. This he did not deny; but he did deny, that Government had not done their best to carry it into operation as far as was possible, and he would assert that the act had been improving in its operation to a very considerable extent, and that as far as from its nature it could be carried into effect it was carried into effect. Then the noble Lord went on to state cases which had arisen in the various districts under the four inspectors, as they were reported in returns made, he believed, in consequence of the motion of the hon. Member for Salford. The noble Lord said, that in the district of Mr. Stuart, there were no convictions of offenders against the law at all; but it was but fair to that Gentleman, and to the noble Secretary of State for the Home Department, to state why that return was a *nil* return. The fact was, that while that district was under Mr. Horner, the whole number of convictions under this Act which occurred in it was only eight; and when Mr. Stuart succeeded to him, he did not find that district in confusion from disobedience to the law, for the millowners of it were perfectly willing to obey the law, but he found, that there were no cases of violation of the law within the district, except an occasional one at the most here and there. Now, the House ought to know what was the ground on which the noble Lord, and also the hon. and learned Member for Dublin, founded their assertions that the law had not been fully carried into effect. The noble Lord and the hon. and learned Member gathered this from the evidence taken before the Combination Committee. Now, in the first place, there were examined before that Committee three master manufacturers of Glasgow, men of great respectability, and one of them, Mr. Charles Todd, perhaps the most eminent manufacturer and the most upright man in Glasgow. Well, these three gentlemen were examined by the Committee, but not a single question was asked them as to the operation of the Factory Act: But immediately afterwards three operatives were summoned, and then questions were put to them by the noble Lord and other hon. Members of the Committee, with a view to investigate the operation of that Act, and from the answers of these men the House would see with how much correctness the noble Lord and the hon. and learned Member had drawn the conclusion that the Act was not fully carried into effect. Angus Campbell, one of the operatives, was asked by Mr. O'Connell with respect to the operation of the present factory law on the spinning mills of Glasgow, " Is it your opinion that the law is honestly worked out by not taking in children under nine, or do you think there is any fraud?" His answer was, "I must say distinctly that the operative cotton-spinner is necessitated to overlook the law, in order to keep his machine moving, by taking young children in below thirteen for twelve hours a-day or below nine for eight hours a-day." Then he was asked by the noble Lord, "To your knowledge, is the law set at defiance?" Answer.—"It was a matter of necessity." These were the grounds on which the noble Lord and the hon. and learned Member made their assertions, and such evidence as this was taken in proof that the Factory Act was generally violated. But what were the grounds on which the noble Lord had spoken of the violation of the law with respect to age? Why, that one operative having two children, one above, and the other a little below thirteen, he had taken the one a little below the age, and put it to work in the factory as being above thirteen. But this was only one case, and he did not blame the inspector for that;

because it appeared, from the evidence of the certifying surgeons, that children might be taken to be above thirteen, though they were in reality a little below. Let the House remark this applied only to Glasgow; and on it he must say, that to charge the millowners of Glasgow with a violation of the Act, on such grounds as these, he could not denominate as any other than trifling with the House. Now, with respect to the evidence of Sheriff Alison, on which the noble Lord had insisted so strongly, he must say that evidence was, in his opinion, *ex parte* evidence. Sheriff Alison was decidedly a ten-hours-bill man. He said that no measure could be worked consistently with the health or with the morals of the children till you have a ten hours-bill. He further said, in answer to a question from the noble Lord, "In fact you consider this mitigation of labour (viz. a ten-hours bill) is a *sine quâ non* with respect to any improvement that you may attempt to introduce into the large masses of the manufacturing population?" "I think it is decidedly; I am convinced that all attempts to improve the condition of the factory children would be nugatory without it." Sheriff Alison might therefore, he contended, be sat down as an *ex parte* witness on this question. Now, as it was right that the intentions of Government should be known to the House, and the public on a subject of so much interest as this, he begged it might be remarked that he now repeated what he had before stated to the noble Lord, that the intentions of Government were, that the Act, both as regards age, and as regards the period of labour should be fully carried into effect in favour of the factory children. The Act would be in no case interfered with by the Government; so, too, the object of the bill brought in this Session by Government was to amend, in some respects, and to make additions to the former Act, and especially as regarded the clauses which appeared in that Act when it came down from the Lords. The object of that bill was, to secure an education to the children; and also to secure, in some degree, the enforcement of the penalties, in which point he admitted the present Act to be deficient. With regard to the admission of superintendents, that was also provided for in the bill, and though the noble Lord would have the House believe, that their admission into the factories had not been carried into effect to an equal extent as the admission of the inspectors, it might be well that they should know, that no impediment had been offered to the admission of superintendents by any millowners, except in Mr. Horner's district. This he mentioned, in order that the House might know that the millowners were not universally opposed to the wishes of that House. In a few cases Mr. Horner himself had been refused admittance by a few individuals whose characters stood, he believed, very high; but he did not justify their conduct because their characters stood high, for in his opinion if a millowner refused inspection he could not avoid suspicion. He thought the noble Lord had endeavoured to induce the House to think, that millowners sat on the bench as magistrates to adjudicate on themselves; but to his knowledge, no man had been found sufficiently hardened to sit on complaints against himself, though he admitted, that the sons and brothers of millowners, against whom complaints were made, occasionally had sat to hear them. But as this was consistent with law, it was absolutely impossible for Government to interfere, and say "You must not sit on the bench and adjudicate on these cases." With regard to the mode of ascertaining the ages of children, and to the surgeons' certificates, these were, he admitted, points on which again the law was deficient. He admitted, that there was a vagueness about those clauses which related to the surgeons' certificates which were required. But it was almost impossible to fix a definite rule. He did not attempt to extenuate or defend what Mr. Horner had said on these points; that gentleman had recommended, he believed, an examination of the teeth of the children with a view to ascertain their age; but with regard to this and other recommendations he would only say, that Mr. Horner had acted in this from zeal for the proper discharge of his duty, and from a real desire to carry into effect the provisions of the Factory Act. The noble Lord said, that he brought the circular of Mr. Horner under the consideration of Parliament, and that immediately the noble Secretary for the Home Department had taken steps that Mr. Horner's instructions should be withdrawn. He would add, that Mr. Horner was engaged during three months in trying experiments and finding what was the best criterion of age in children about thirteen years. Much difficulty was experienced in fixing on a test, but as soon as it was found that the one proposed was not according to law, upon the opinion of the law officers of the Crown, which was immediately taken, orders were despatched from the Secretary of State's office that no other mode should be followed but what was strictly within the purview of the statute. Now this was the case, but from the noble Lord's statement, the House, he thought, would be induced to doubt whether the Act was followed in that particular, or whether it was left a dead letter. In the year 1837 the noble Lord had on two or three different occasions called the attention of the House to the subject of the factory children. But the noble Lord always forgot to state what the Government had done in 1837. He accused them of a desire to stifle the subject, but, he forgot to mention that on a representation made to them by the noble Lord, to the effect that the Factory Act was not fully worked out, the Government had remodelled the districts, increased the number of times of visiting the mills, and since that time every report of the inspectors stated, that the operation of the Act had been improving in every district throughout the country. Then came the question, whether the Government had been justified in withdrawing the bill of this Session. He repeated, that, had he been in his place the day ensuing that fixed for the second reading of the bill in the month of May last, he certainly would have pressed it on, notwithstanding the opposition given to it, and the various questions which arose upon it out of doors. He denied, that the Government had been silent or careless upon the subject, but they could not regard a measure of that kind as otherwise than one of an experimental nature. Whatever new enactments they might make upon the subject, there were so many persons engaged in the factories, and so many interests concerned, that loopholes would invariably present themselves for evading the law. He readily admitted there might be established a better system than the present, and that they should ameliorate that system to the fullest possible extent, consistently, however, with the recollection, that if they unnecessarily interfered with the working of the great manufactories of this country, they would endanger the employment of those young children, and run the risk of throwing them idle upon the country, and placing them consequently in a situation in which they would be more ready to receive those evil impressions, against which the noble Lord was so anxious to guard them. He looked with suspicion on the bill of the noble Lord as a ten hours bill. He had listened attentively to his speech, and he confessed, that it appeared to him to contain more to justify the idea that the noble Lord wanted to interfere with the principle of the present act, than to remedy or remove its defects. Now he again declared, that while he was ready to attend to the subject with the view to remedy its defects early next Session, he was resolved never in any way to interfere with the two great principles of age and time, principles which were so intimately connected with the manufactories of the country. He therefore looked with a suspicious eye upon the motion of the noble Lord, because it certainly, in his mind, at least, professed one thing while it had another for its object. This he said without intending the least disrespect; but it appeared to him that whilst the noble Lord hinged the question upon the withdrawal of the bill which had been before the House for amending the law, his real object was, to interfere with the principle of that bill. He hesitated not, however, to give the noble Lord and the House this solemn assurance, that it was the intention of the Government to amend the present law early next Session, by a measure similar to that already introduced, which, from what had occurred during the present year, he had every reason to expect would receive the support of a considerable portion of that House. He promised that it should be vigorously prosecuted, and had only to hope that it would be returned from the other House in a better state than was the original bill. A question of this kind, so deeply affecting the interests of the country, should certainly not be opened every three or four years, for he was convinced that such interference with labour would tend to injure rather than benefit the manufactures of the country.

Sir *W. James* was anxious to offer a few observations in support of the motion of his noble Friend. In the early part of the Session they had heard a great deal on the subject of negro apprenticeship. He recollected, that it had been somewhat ludicrously urged, that the period of apprenticeship ought to terminate stimulaneously with the Coronation. It was in the recollection of the House that this subject appeared to excite a great deal of interest. The galleries were filled with gentlemen wearing broad-brimmed hats, and clad in grave and sober-coloured garments. Now, he contended, that the sufferings of those of our own country, who toiled in those factories, had as strong a claim for sympathy and redress, as those which appeared to have excited, to such an extent, the feelings of the country. He thought that it was the imperative duty of the Legislature to protect those children. The Legislature provided a sufficient protection for the property of minors, and guarded them against waste and extravagance. But let them recollect that the property of a poor man was his labour, and was as much entitled to the protection of the law. Was it not the duty of the Legislature to protect the poor man from that condition which was calculated to produce premature decrepitude? They were bound to do this, unless they wished to establish the principle of having one law for the rich, and another law for the poor. When the rich man spent his property he did injury to no one but himself. This, however, was not the case with the poor man; for when his labour was prematurely exhausted, or extravagantly wasted, an injury was done to the productive power of the state. Let them recollect that one of the main causes of the great and distinguished commercial and manufacturing position which England enjoyed, was the indefatigable industry and the untiring labour of her artizans. Surely it never could be the interest nor the desire of the Legislature to see the labourers of the country prematurely worked out, and their minds debased and degraded. He congratulated his noble Friend (Lord Ashley) on the part that he had taken with respect to those suffering classes. The subject had been early forced upon the attention of Parliament by Mr. Sadler, whose exertions on the subject were entitled to the highest praise. The noble Lord had renewed the attempt of Mr. Sadler, and had proved himself a worthy successor to that Gentleman. The exertions of his noble Friend were entitled to the greatest praise. His noble Friend had introduced a bill on the same principle as that which had been introduced by Mr. Sadler. That bill was resisted; but as an expedient, and as the next best thing, a commission was agreed to, to inquire into the condition of those engaged in these factories, and the evidence collected by the commissioners disclosed a fearful state of things. But bad as that state of things was, they might feel almost justified in saying that it was still in existence. The evidence of the children themselves had been taken down, and it disclosed a fearful and lamentable condition. They described themselves as sick and tired after the day's labour. That when they returned to their homes in the evening they were obliged to throw themselves down from excessive fatigue. A physician whose authority was entitled to respect, had published some observations on the physical condition of those children, and he stated, that the labour in which they were employed, on account of its protracted duration, rendered them liable to pains in various parts of the body, to swellings of the feet, and that these appearances often terminated in the production of serious permanent and incurable disorders. Well, then, his noble Friend introduced his bill to remedy this state of things, but the Government said, that they would not have the noble Lord's bill, that they would themselves introduce a bill exactly suited to the nature of the case. This was what the Government did. They shewed by their subsequent conduct, that they thought their own bill was inefficient and inapplicable. If that was not their opinion, why had they introduced the present Act? Amongst other regulations which they had made, it was provided by the present law, that notice of any offence should be given within fourteen clear days after its commission; and though the inspector might not enter a factory more than once in the year, yet this limited period was all that was allowed with respect to any violations of the Act that might have taken place. Upon the whole, the subject called loudly for the attention of the Government. He regretted that they had postponed the remedy for a single day. On the subject of these abuses, amongst many other authorities, he might appeal to the opinion of Mr. Senior. The hon. Baronet read an extract from a statement made by Mr. Senior, to the effect, that such was the progressive increase of the fixed capital employed in manufactures, that to work that capital profitably, there should be an increase of the time of labour, so that the evils of which they complained, instead of decreasing, were upon the increase. The hon. Member for Oldham (Mr. Fielden) had published a statement of the condition of these factory children. That hon. Member stated, that until he made the calculation in his own factory, and under his own eyes, he had no conception of the extent of the labour which these children endured. To his utter surprise, he found that the distance walked by a wretched child in the course of twelve hours, was not less than twenty miles, and, in some cases, it was even greater. After the very able speech which had been made by his noble Friend, it was not his intention to detain the House. He did not concur in the high character which had been given to the bill introduced by the Government in that Session. The bill contained a ludicrous enactment with respect to the children. In it was contained a provision to the effect, that the Secretary of State, should, from time to time publish, or cause to be published, an easy book for children; and no child who was unable to read this book, should be held able to read. The noble Lord, the Secretary for the Home Department, had written a tragedy, which, he supposed, was to transmit his name to posterity. The noble Lord was now, however, to be employed upon the less noble labour of preparing a horn book for the factory children. The present question was a national question, which must come home to the business and bosoms of every Member of the House, and in the hands of the House he was content to leave it. He had lately looked into the life of Sir W. Scott, written by Mr. Lockhart, and he had noticed an observation made by that great man in passing through a manufacturing district. It was this—"The justice of Heaven is requiring and will requite those who have bloated this country into opulence, at the expense of the happiness and morals of the lower orders of the people."

Mr. *Turner* wished to make one observation. He thought the allusion to those who had crowded the gallery when the Negro Apprenticeship Bill was under discussion, was uncalled for. Though those who were present on that occasion were few, yet no less a number than fifteen hundred thousand persons had petitioned Parliament for the termination of negro apprenticeship. The exertions of those individuals had produced a beneficial result; and he was sure, that all must respect the motives by which they were influenced.

Sir *R. Bateson* concurred in the sentiments which the noble Lord had expressed, and which did so much honour to his heart, and which had been expressed with an ability so creditable to his talents. On the last occasion on which this subject was before the House, he had heard some statements made with respect to the state of factories in Ireland. He resided in a part of Ireland where factories were rapidly increasing; and he thought, that he was acquainted with the sentiments both of the employers and the individuals employed in those factories. It was stated on a former evening, by the noble Lord the Secretary for Ireland, as well as by the hon. Member for Dublin, that the parents of the children employed in those factories, were adverse to any alteration of the present system; as the shortening of the hours of labour must have the effect of diminishing wages. He knew the feelings of the parents of the children employed in the part of Ireland with which he was connected, and he did not believe, that there was any amongst them so slavish—so devoid of parental feeling—as to sacrifice the lives and morals of their children for the sake of the few shillings that they could earn by those additional hours of protracted labour. On behalf of the operatives of the district where he resided, he denied that they were actuated by any such base, selfish, and sordid sentiments. He felt bound, as a matter of duty to those persons, to make this statement; for he could not sit still and hear it asserted, that for some additional gain they were willing to sacrifice their children to the continuation of such a system.

Mr. *Gillon* said, that as he had been made the subject of attack in one of the party papers of the day, he trusted that he would be afforded an opportunity of making an explanation of the circumstances to which the attack referred. It had been stated, that on the occasion which had been fixed for the discussion of the noble Lord's motion, he had entered into a conspiracy with the Government to have the House counted out. If no one but himself had been assailed by the miserable scribe who penned those lines, he should not have troubled the House on the subject. The abuse of such an organ as *The Times*, the renegade, the apostate *Times*, was not worth notice. On the day in question, he came down to the House determined, if he had met the Speaker's eye, to say a word in reference to an hon. Friend of his, who, he thought, had been talked unfairly of in his absence. On referring to the paper, he found that his hon. Friend, the Member for Kilkenny, had priority upon the paper. He was, moreover, himself anxious to give notice of a motion; and when he found that he was balked in both objects which he had in view in coming down to the House that evening, he got up, and without consulting any one, moved that the House be counted. He would like to know, who would impugn the object he had in doing so. There were but thirty-seven Members present at the time; and though it was stated, that many Members were in attendance at the bar of the House of Lords who were willing to support the motion of the noble Lord, yet their absence proved that they had found matter more attractive elsewhere. He wished to put himself right with the House and the country, as to the conspiracy into which he had been charged with having entered to have the House counted out on that occasion. With respect to the question before the House, he (Mr. Gillon) was much surprised at the statement of the hon. Member for Dublin, that in Glasgow, the Factory Act was trampled under foot, and was respected by nobody. He would like to know on what authority that statement rested. He now proceeded to notice what had been said as to the Act not being carried into effect in Glasgow. He had been surprised to hear it said, that the Act had been a dead letter in Glasgow. He should like to know the grounds of such an imputation on the inspectors and superintendent. So far from this being the case, the Act had been carried into full effect in Glasgow. It was the system in Scotland and Ireland, to visit each factory; and the superintendent in Glasgow had made 3,537 visits in the last year. It was to the credit of the millowners in Scotland, that they had exceeded the requisitions of the Act; they had given the superintendent access to their mills at all times; and if the superintendent or the inspectors saw any children there who appeared under the age required by the Act, the millowner immediately discharged them from his employment. As to education, there was an abundance of schools, and each child was required to produce a certificate from the master of the school. The evidence referred toby the hon. and learned Member, of the combinations before the Combination Committee, was not to be put in comparison with the statements of the superintendent of Glasgow. The hon. Member read an extract from a letter from the Lord Provost of Glasgow, who expressed his astonishment at the allegation that the Act had been a dead letter in Glasgow; that all the requisites of the Act had been substantially observed there, and that the millowners were disposed to afford every opportunity in their power, for their enforcement. The reflection of the noble Lord upon the magistracy, cut two ways; if it were just, it would reflect upon those who appointed the magistracy. He had visited the manufactories of Scotland, and he never saw a more cheerful, healthy set of children in his life than he saw there.

Mr. *R. Ferguson* rose for the purpose of vindicating the proprietors of two respectable factories in his neighbourhood from any imputations that were made, as to the evils of the system generally. In his neighbourhood, there were two considerable factories, and no persons could be more anxious to carry the law into effect than the respectable proprietors of those factories. So far from having a desire to employ children contrary to the provisions of the act, they were most anxious to give the inspector every facility to examine every part of the works, in order that everything in the management of their factories should be carried on in an aboveboard and straightforward manner. He felt bound to say thus much, in justice to those parties.

Mr. *G. Wood* said, as the noble Lord had alluded to the conduct of some magistrates of the county of Lancashire, he wished the noble Lord to state on what authority he grounded the statement, and also to name the particular case to which he alluded.

Lord *Ashley*, in reply to the question of the hon. Gentleman, said, that he had taken the case to which he had adverted, on the authority of the official statement. It was to be found in page 24 of the Report, printed by order of the House, on the 9th of March, 1837. It was under "Bury," which, he supposed, was Bury, in Lancashire; there were several counts in the information; the case was admitted, and a fine was imposed of 17*l.*, on the 12th of December, 1836. The names of the magistrates, who sat at the Boar's Head, Middleton, were—Mr. G. W. Wood, merchant; Mr. D. Potter, merchant; and Mr. J. D. Smith, cotton-miller.

Mr. *G. Wood* said, that as the noble Lord had accompanied his reference to the case with severe censures upon the conduct of the magistrates engaged in it, he trusted the House would allow him to explain that conduct, and to vindicate himself from those imputations. The noble Lord had stated, that the case had been dismissed in ten or twelve minutes.—[Lord *Ashley:* The hon. Member has mistaken what I have stated; I said no such thing.] He was bound to say, then, that he had mistaken the noble Lord, and he willingly accepted his disclaimer. When he found, from the clerk of the Petit Sessions, at Middleton, that a number of summonses had been issued, and as the cases were of a description that did not usually come before that bench, he felt extreme anxiety that there should be a full attendance of magistrates when they came to be considered. There were only two magistrates generally sitting at those sessions. Knowing the anxiety which these cases excited in the public mind, he wrote to his colleagues, expressing his desire, that there should be as full an attendance as possible. There were three magistrates in attendance on the occasion of hearing those charges. Instead of dismissing the charge in ten minutes, they went in succession through the whole of the several cases, and stated, that they would reserve their decision respecting any one case until they had gone through them all. After having heard the cases they remained at least an hour in deliberation as to what were the penalties that ought to be inflicted, or whether they would class the cases according to their several demerits, and apportion the penalties accordingly. The parties admitted their guilt, and the magistrates proceeded to levy such penalty as they deemed proportionate to the character of the offence. Feeling that no inquiry had before taken place in that Court, they were determined to inquire fully into the circumstances, the more particularly as much public interest had been excited on the subject, and it was equally for the interest of the manufacturers and the operatives, that the real facts should be generally known. They found, that in not one of these mills had there been any previous complaint of a violation of the law; and they, therefore, felt themselves entitled to treat the charge brought before them (the magistrates) as the first offence, and, therefore, to deal more leniently than if it had been of frequent occurrence. The offences, moreover, were all committed in country mills in which the factory law was scarcely known, and in which the proprietors and superintendents had most probably never received any instructions from the inspectors with regard to that law. In all those cases penalties were imposed. When they were brought into Court, he, as chairman of the bench, was requested by his brother magistrates to state the grounds on which they had come to their decisions; he did so at considerable length to a crowded Court, and informed them, that the penalty then inflicted was to be looked on more as a warning than a penalty, and not to be taken as any measure of what penalty would be inflicted for future violation of the law. There was three or four other cases in which the parties pleaded not guilty. With respect to these, the magistrates determined to appoint another day for hearing. A day was fixed, and the case investigated at great length; all the parties were punished except one; this was a case in which a manufacturer was charged with working a child of nine years old. The evidence against the manufacturer seemed at first very strong; but, on the other hand, the parish register, and that of the nurse who suckled the child, gave it a complete contradiction. In this case the party was acquitted. A heavy penalty was also inflicted on the convicted parties, as having, by plea of not guilty, put the complainant to considerable expense. So far, also, from the inquiry having occupied but little time, he could assure the noble Lord, that the first day's proceeding occupied six hours, the magistrates being anxious to convince all parties—manufacturers, operatives, and the general public—of their anxiety to give the matter the closest investigation. The following day's proceedings occupied three hours. Knowing these facts, and knowing, also, that his brother magistrates and himself had been actuated by the strongest desire to do their duty impartially, he was very much surprised at the report which had been made to the Home-office by Mr. Trimmer, dated the 18th of January, 1837, in which, alluding to those cases, he said, that the magistrates had taken a very different view of them from that which he took, and that Mr. Trimmer had stated to them, that they were all cases which called for heavy penalties. When he found this report, he was determined to send his statement of the case to the Home-office, but before doing so, or preferring any complaint against Mr. Horner, a gentleman whom he highly respected, he felt it necessary to see him on the subject, and Mr. Horner told him, that Mr. Trimmer had never made any communication to him respecting it. The whole of the cases decided at Middleton were brought out of their proper district; the charges were of offences committed in Rochdale, in which a bench of magistrates was constantly sitting, but the complainants stated, that their wish was to take the cases out of the immediate neighbourhood, in which they took place. In all these cases his wish was to have the law faithfully adhered to, and he was exceedingly desirous, that when the magistrates were called upon to carry its provisions into effect, they should do it in such a manner as to excite no angry feeling in the bosoms of any parties. He made the most anxious inquiries as to the public opinion of the manner in which these offences had been treated, and he had the satisfaction to say, that he did not hear in the entire neighbourhood an unfavourable opinion of their decision. Since the report condemnatory of these proceedings had appeared, it had been his constant endeavour to ascertain the true state of public opinion, and he could deliberately declare, on his honour as a man and a gentleman, that not a single individual, whether manufacturer or independent inhabitant of Middleton, left the Court with any other feeling than that the magistrates had faithfully and assiduously discharged their duty. The noble Lord had stated—he (Mr. Wood) did not know on what authority—that the majority of the magistrates alluded to were millowners. To this he must give the most unqualified contradiction. He was not a millowner.

Lord *Ashley* had not called them millowners, but persons connected with mills.

Mr. *Wood:* At the time the noble Lord spoke it was his (Mr. Wood's) impression, that he had called them three millowners; but, of course, he was bound to accept the noble Lord's explanation. The fact was, that he had for several years been a millowner, and great part of the property he now enjoyed he owed to operative industry. This he was not ashamed to avow, but at the time of the inquiry he had no interest in mills, nor, he believed, had any of the gentlemen with whom he was associated. They were men who, having by industry and enterprize acquired an honourable independence, were now, having transferred their business to younger men, serving their country by their active exertions on the magisterial bench; and he should be unworthy of a seat in that House if he did not stand forth to vindicate their characters and to state his conviction, that the aspersions which were uttered against them were unfounded. There was one other circumstance to which he wished to allude. There were only two instances in which he had acted under the factory law, it having been from the first his determination to take no part whatever, lest his conduct might be suspected on account of his connexion with the mills. It was not his seeking, that the bench of magistrates over which he presided was selected by the informers to inquire into their case; but when they had done so, he immediately determined not to shrink from the ordeal. Since that time, not a single case had come before him, and he could assure the noble Lord, that nothing would give him greater pleasure than to be removed from such inquiry altogether. He thought, however, he was justified in saying, that the inquiry in which he had been engaged, had been properly carried on. He was not inclined to follow the noble Lord through the whole of his very eloquent speech; to his talents and the benevolence of his motives, he gave all merit. But neither his motives nor his temper had saved him from that tendency to exaggeration, which often was the consequence of great zeal. The House would permit him to say, that living as he did in the midst of the manufacturing districts, and feeling an anxious desire for the welfare and improvement, intellectual, moral, and religious, of the operative population, and knowing that these were only to be effected by constant and vigilant attention, he felt a strong interest himself in every proceeding under this Act, and he declared, that a great deal of what had been uttered on the subject at present under discussion, was gross exaggeration. It could not be expected, that an Act dealing with such vast interests as the whole manufactures of the country could be brought into operation like a beautiful piece of clockwork or a battalion of soldiers. The House would see, that it was inevitable that the first working of such a measure must be imperfect, and that, without any designed violation of the Act, many causes of complaint would occur. But instead of reading partial extracts from the reports of inspectors, they ought to read those reports entire, as a mass of testimony coming from a highly respectable and intelligent body of men who had been deputed by the State to see the laws carried into effect. If they did so, he did not doubt, that they would come to a different conclusion from that which they were now drawing from the statement of the noble Lord. The Act had done much important good, and had removed many crying evils, to two of which only he would allude. It had contracted the hours of labour in every mill, where the labour had previously exceeded a reasonable time, and it led to the employment of a much smaller number of children in those mills. In Manchester, few were employed under thirteen years, and when younger children were employed, it was in the fine and trimming department, where they were absolutely necessary; but even then, in many cases, the system of double sets had been introduced. He was not now disposed to go further into the subject; he felt exceedingly obliged to the House for the attention with which he had been listened to, but he could not conclude without expressing the great regret and surprise he had experienced when he had the honour of meeting the noble Lord in the streets of Manchester, and found that the noble Lord, although never having been in the district before, seemed unwilling to examine himself into the condition of the mills. He, on that occasion, tendered to the noble Lord his endeavour to procure him admission into every mill in the place, and he certainly understood from the noble Lord's conversation (he might have been mistaken), that he (the noble Lord), had already made up his mind on the subject, and that he did not consider it necessary to pursue any further inquiry, and also, that his time was too limited for the purpose. It happened, that Mr. Horner, the inspector, was in Manchester at the time, fulfilling the duties of his office; he ascertained, that that Gentleman had not the advantage of being personally known to the noble Lord, and proposed to introduce him, but this his Lordship also declined.

Lord *Ashley* trusted, he should be indulged with a few moments, while he answered the strongest and most unfounded imputations that had ever been uttered in public or private. How could the hon. Member assert, that he went to Manchester, and refused to inspect the mills, when the fact was, that he inspected every mill in the place? Did the hon. Member mean to ay, that he did not go with the hon. Member to Mr. Burley's mill, that he did not accompany him round the town; could he, in fact, point to one single place in which inspection was declined? How little must the hon. Member know of his visit to Manchester, when the fact was, that he visited every mill in the town? For this he would appeal to the hon. Member for Salford, who accompanied him. Did the hon. Member know how he (Lord Ashley) spent his evenings while in Manchester? He went to the garrets and the cellars of the operatives to make inquiries from the fathers and the mothers, and to ascertain the state of the children with his own eyes. And was he now to be told, when he brought the result of these inquiries, and labour before the assembled Commons of England, that he had resisted all investigation, and had declined the hon. Member's valuable assistance? On one point alone, he declined it, and that was the introduction to Mr. Horner. This he did decline, and on these grounds; he thought it would not have been fair to meet a man in private society at the convivial board, to obtain there his private opinions and feelings, and afterwards to express his opinion of his conduct as freely as his public duty might require. These were his reasons for declining the hon. Member's offer of introduction, and this was the only case in which he refused his assistance.

Mr. *Wood* said, he should certainly have been proud if the noble Lord had accepted his invitation; but that was not the circumstance to which he had alluded. It was the fact of his having requested the noble Lord to accompany Mr. Horner on his inspection of the mills. The noble Lord said, he visited Mr. Burley's mills. He did so, but that was the only mill he visited. Most assuredly, he, on that occasion, offered his best services to procure the noble Lord, admission to all the mills, but he understood his Lordship to decline, and it was only on intercession of the hon. Member for Salford, that he was induced to change his intention. He was surprised, that the noble Lord, when he did visit these mills, made no inquiry of Mr. Burley himself, of the work-people, or the superintendents.

Mr. *Brotherton* said, he was in justice to the noble Lord bound to state that he (Mr. Brotherton) accompanied him to several mills, and he must say, that on those occasions the noble Lord showed no indisposition to ascertain the real state of the manufacturing population. He would not detain the House, but the subject now before it was one in which he had taken a deep interest for more than twenty years, and for that reason he hoped he should be indulged with a few moments' attention. He had always been an advocate for legislation with regard to the factories, and he thought, that the facts would bear him out in saying that the legislation which had taken place had been of very great use. He wished to be understood in anything he said on the present occasion as attacking the system, not as imputing any blame to the Government, the magistrates, or the inspectors. He considered that the present Act was so complicated that it could not be carred into effect. He had stated those sentiments during the progress of the bill through that House, and opposed every clause; and he did think, considering the attention he had devoted to the subject—and the inspectors had since borne him out in the assertions he then made—that his opinion was entitled to some little attention. He considered that the main object of the Act was to protect young people from excessive labour; and he thought he should be able to show, that it was constantly violated both by masters and operatives—that it was complicated in its provisions, and inconvenient to the employers and the employed; and that it did not give that protection to the children which the Legislature designed it should. In proof of its violation he had only to allude to what had been said by the noble Lord, and to the return which he had had the honour of moving for. By that return it appeared there were 4,000 mills in which 360,000 children were employed, and that during three years in which the Act had been in operation, there had been 2,000 convictions, and penalties inflicted to the amount of 2,500*l.* Now, these 2,000 convictions, out of 4,000 establishments were enormous in the time, and proved the difficulties which stood in the way of obedience to the Act. Another error in the Act was, that by it children of six years old might be worked for ten hours in a silk mill, while in a cotton mill those of twelve and thirteen years were limited to eight hours' labour. From this, and the frauds to which its evasion led, he felt convinced that the bill did not give the protection which it was designed to give. In this opinion he was completely borne out by the testimony of the inspectors. [The hon. Member here read extracts from the testimony of the inspectors, proving the frequent violations of the ten hours' bill, and the evil consequences of such violations as exhibited in the wan and haggard appearance of the children.] He begged to call the attention of the House to another fact, which was, that, in 1835, 60,000 children, under thirteen years, were employed, and that now there were not more than 10,000. He thought, that next Session this Act should be repealed, as, while its intention was to lighten the labour of the children, its tendency had hitherto been to cause them to work for much longer periods. While such a state of things existed, of what use was it to talk of educating the children whose every waking hour was occupied by toil? He was not prepared to say, however, that they could reduce the hours of labour without increasing the price of the produce, or else reducing taxation, to enable the British manufacturer to compete with the foreigner. If the foreigner could buy cotton at 1*s.* 9*d.* a pound, when we paid 2*s.* he would, of course, be able to undersell us. Thus taxes on cotton—and on corn—must go, if we limited the hours of labour. If the manufacturer could by this, or any improvements in machinery, successfully compete with foreign work, so much the better; but what he (Mr. Brotherton) contended for was, that they were not justified in making up their deficiency out of the sweat and bones of the unfortunate children.

Mr. *O'Connell* wished for a few moments to trespass upon the indulgence of the House. He wished to do so briefly; for he did not know any subject on which it was so easy to talk good-natured nonsense. Exceedingly fine feeling and exceedingly absurd political economy could be combined with the greatest facility upon this subject. The reason why he now intruded upon the House was, that he had said some days before, that it had been proved before the Combination Committee that the law had been violated in Glasgow, and where it had been carried into effect in Manchester the injury done by it had been admitted. He understood that what he had said respecting Glasgow had been contradicted that evening. The evidence to which he had referred had been given not by master manufacturers, but by cotton-spinners, by Campbell and M'Nish, office-bearers in the union of Glasgow. An hon. Friend of his had talked of the difficulty of educating cotton-spinners. He could say of both these witnesses that they were men who not only had read a great deal, but who had also thought a great deal, and were men of as distinct and clear minds as he had ever met with. In page 50 of the report, the witness Campbell gave this testimony:—

"What is the age at which children are now taken into the spinning-mills at Glasgow?—I believe the law says thirteen years of age, to work twelve hours a day; but I dare say there are some taken earlier than that.

"Are they taken in at nine?—Yes.

"Is it your opinion that the law is honestly worked out by not taking in children under nine, or do you think there is any fraud? I must say distinctly that the operative cotton-spinner is necessitated to overlook the law in order to keep his machine moving, by taking young children in below thirteen, for twelve hours a day, and below nine for eight hours a day.

"To your knowledge the law is set at defiance?—It was a matter of necessity; the mills would stand still if such was not the practice.

"Do you mean to say that it is impracticable to adhere to the law in that respect?—As far as my personal experience goes I mean to say—and I have a good deal of experience in the matter, having taken a very warm interest in that very question—that it is altogether impracticable to carry out the spirit of the present law as it now stands."

That was the evidence of one cotton-spinner; this the evidence of another.

"Were you rightly understood to have said that the law is violated with respect to the age of the piecers, and that they are brought in younger than the law allows?—Yes; the law is violated.

"And generally violated?—Yes; and our employers are throwing all the responsibility of that violation of the law upon the operative. The operative is obliged to violate it or allow his machinery to stand."

At page 68 this was said:—

"But you are understood to say that the work could not go on as it does now, unless you employed these piecers under the legal age of thirteen?—That is my opinion, that the work could not go on without employing children from nine to twelve years of age.

"And employing them the entire twelve hours?—Yes.

"You mean, that the manufacture could not go on for the same number of hours, but you do not mean that the manufacture would be stopped altogether, if no children were employed under the legal age?—I mean that the mills would be stopped."

That, then, was the case so far as Glasgow was concerned. The witnesses proved that the law had distinctly been violated in Glasgow; that it could not be carried out; that the mills would have been stopped; and that if children under thirteen years of age had not been employed, the machinery would have been stopped. The case as to Manchester was proved by John Doherty, as intelligent and as highly-educated as any man could be expected to be, and a great agitator, too, for a ten-hours bill. He was one of the leading men for many years amongst those who agitated on that subject. He was also secretary to his union. In page 260 he gave this testimony:—

"Has the mode in which the act has been enforced been burdensome to the operative?—Exceedingly so.

"In what way?—To the spinner it has been exceedingly so; to the amount of several shillings a week in his wages.

"Describe how?—When the factory workers all came and left the mill together, the difficulty was not so great in getting a sufficient number of children to attend to the work; but since that has happened the spinner is anxious to get children old enough to continue the total number of hours, so that he might not be subjected to the inconvenience of changing; that has lessened the number of children in the cotton-mills, and turned them into the silk-mills; and the consequence has been, that children who were receiving 2*s.* 2*d.* a week are now receiving 4*s.* 8*d.*, and in proportion to the other piecers; the older piecers have not increased.

"You said the act had been disobeyed?—Yes, it has.

"In what respect only has it been disobeyed?—In respect to all its provisions, but more especially as to the eight-hour workers.

"Then instead of being only worked eight hours, the children who ought to work only eight hours are worked twelve or thirteen?—Yes, by the aid of certificates from the surgeons, or connivance, or something of that kind; sometimes the connivance of the surgeon, the parent, and the employer."

The effect, then, of acting upon the provisions of the bill was, that in Manchester the man paid 4*s.* 8*d.* for that which he before could procure for 2*s.* 2*d.* In Manchester, then, they complained of the law when it was obeyed. Why was it so? Because they had legislated against the nature of things, and against the rights of free industry. They were bound to provide for the protection of children; but, he denied that they had any right to interfere with adults, for adults were masters of their own time. As to infants, it was their duty to legislate with respect to them. That was the principle which regulated all their courts of law. The Court of Chancery undertook the protection of the child when it had property, and if it had not property then the Legislature was bound to take care of it. But between whom were they legislating on this subject? Between the parents and the child—if they were the legal protectors of the child, the parent was its natural protector. Hard, indeed, must be that parent's heart, and callous their feelings, when between them and their offspring, it was necessary for humanity to interpose. He admitted, that there was some, perhaps a great deal, of affected humanity in the agitation of this question; but where there was real humanity interested in it, he might appeal to that genuine humanity that no affection could equal that which the mother felt for the child to whom she had from her own breast imparted its first nutriment. Why did the mother part with her child—why did she expose it to the sufferings which it was said were endured in a factory? Because the sufferings of hunger were still greater. It was the dearness of food that wrought the change; and then he asked those great advocates opposite, who called out for an alteration of the law, would they give to the children cheap bread? He had listened with great attention to the eloquent speech of the noble Lord; he admired the talent displayed in it; he was quite pleased with the humanity of the sentiments contained in it, and he really did hope before the speech had concluded that the noble Lord would have proposed some practical measure—he had hoped and believed, that the noble Lord would have proposed the repeal of that tax, by which, if taken away, the mother would be able to give more food to her children. He respected the noble Lord, but he could not respect his humanity so long, as he found him and his class making bread dear. Let the noble Lord and those with whom he acted, come forward to repeal the corn laws, and then they might talk of their humanity. If they carried the repeal of the corn-laws, they ought to remember that the lowering the price of the loaf a halfpenny or a penny would spare half an hour's labour to the children. He was glad to hear of the humanity of the noble Lord; it was delightful to listen to the noble Lord's expression of his sympathy for the poor children; but it was, after all, a very great disappointment to find that the noble Lord was unprepared with any scheme or plan for giving to them more food; to himself, especially, it was a very grievous disappointment, as he should wish to see legitimate humanity on the one hand, and cheap food on the other. He thought that there had been a great deal of unnecessary legislation upon this subject; but, he was sorry when they had passed an act, that they had not made it work well: as long as it was the law, it ought to be enforced, and the way, he believed, in which that was to be done, was by having more inspectors. He certainly had not a very good opinion of the Irish magistrates, although he was one himself; but, bad as his opinion was of the Irish, he found, according to the statements made that night, that in England worse magistrates than the Irish were to be found. When the bill was, introduced by the President of the Board of Trade, he had voted for it; and for doing that he had been tolerably abused; but he had given his vote upon this express ground, that when the right hon. Baronet, the Member for Tamworth, had suggested that there were not a sufficient number of inspectors, the right hon. the President of the Board of Trade said, on going into Committee, they should have as many inspectors as they liked. This declaration it was that had won his vote, and as long as the present act was the law, it was his opinion that they ought to have increased the number of the inspectors. But as this discussion about children was, in his opinion, a make-believe—it was a deception; the real object was to have a ten-hours' labour bill. The hon. Member for Salford, with a candour that became him, and which he became, avowed it at once. The cotton manufacture was one of the most important branches of manufacture ever established in this country. Within fifty years they had seen it produce such uncommon masses of property—nay, perhaps, they never could have borne their national debt if it were not for the enormous increase of wealth which they owed to that manufacture. When, then, so much had been done, who could tell how much more they were capable of doing. They had now competitors in other nations. They had them in Belgium, in France in Russia, in Switzerland; and he trusted, that when the bloody scenes which were now acting in Spain and Portugal, were at an end, that the cotton would be grown in one field and turned into cloth in another. But men were now struggling for a ten-hours' bill. In the present state of the world did they expect that for ten hours work they could get twelve hours' wages? If they did, then they would soon find Belgium, where there was cheap food—where there were no corn-laws— they would find it really making Manchester what it had been called, "a place of tombs," and sending its manufacturers and its operatives to seek alike relief from a new Poor-law. Would any man confine steam? If he did, the result must be, that it would finally explode, and dash him to atoms. Would they confine air? Would they confine capital? Capital was the lightest of things—it would take to itself wings and fly from wherever the attempt was made to confine it, and soon would it be seen floating as unrestrained as the winds of Heaven, and perching itself upon that favoured spot where labour was free and bread was cheap. He had no professions to make; he was to be judged of by what he had done, and not merely by what he had said. He yielded to no man in the desire for the public good, and while he declared to them, that they ought to prevent fathers and mothers from sacrificing their children to the mammon of wealth, they themselves, ought not to tempt them to the sacrifice by refusing to give them at a cheap price, that food which nature produced. Let them not now at least be guilty of the childishness of talking of one thing when they were aiming at another, that of regulating the labour of adults. If they did this, then they should give up the claim which John Bull had won for himself, of possessing common sense, and they would only go before the world exposing their ludicrous humanity, which made their manufacturers beggars, and their agricultural proprietors weep over their mistaken advice

Mr. *Bennett* wondered, that no danger was apprehended from the too great increase of our cotton factories. The distress of the hand-loom weavers, who had been thrown out of employment, ought to have induced such a fear. There was great danger in the application of men's minds and capital to one object, more especially, as had been remarked, it was an object in which other countries were endeavouring to rival us. It was dangerous to have one manufacture carried to such an extent, and all others neglected. With respect to the vulgar clamour against corn-laws, in which he was sorry to find the hon. and learned Gentleman for Dublin join, he should remind the House, that any injury done to the agricultural interest would be most injurious to the home trade. Opening the ports to foreign corn would have the effect of reducing wages to the lowest standard, and would be of no advantage to the operative classes. If the factory children were their own masters, or if the parents were in less distress, then labour ought to be free for legislative interference; but that was not the case. He had himself witnessed much misery and decrepitude from putting children to labour at a tender age, and he, as an Englishman, would never yield up the health or strength of the English population, in consideration of any amount of wealth which might be acquired by the sacrifice. He had himself a deep personal interest in the agricultural prosperity of the country, yet he would at once abandon the corn-laws, if he thought, in doing so, he could benefit the labouring classes; but he would not sacrifice the health of those classes for any amount of wealth, however large.

Sir *R. Inglis* said, the hon. and learned Member for Dublin had taunted the Opposition side of the House with talking goodnatured nonsense; if the hon. and learned Member had contented himself with uttering good-natured nonsense, he should not have troubled the House with any observations in reply; but why had the hon. and learned Gentleman converted a general subject of Christian humanity into an inopportune discussion on the corn-laws? For himself, and the friends with whom he was surrounded, he hoped they would never be accused of indifference to the wants and sufferings of their fellow-creatures. Sure, he was, they would never be tempted by the sneers of the hon. and learned Gentleman to abandon what they considered to be their duty. The hon. and learned Gentleman, who seemed to be the leading counsel for the mill-owners on this occasion, admitted, that the law was inoperative, and that it must be practically ineffective. Why, then, had Government so long neglected this matter? If the law were inoperative, what had the Government done to make it more operative? He thought, that his noble Friend (Lord Ashley) was to be congratulated on account of the proud position in which he had placed himself at the head of a large body of his countrymen, not to benefit himself, or advance his own interests. [Sir *J. C. Hobhouse*, Hear, hear.] Did the right hon. Member for Nottingham mean to insinuate by that cheer, that his noble Friend had any intention to promote his own views in bringing forward this question at present? His noble Friend had acted as he had done, not from any view of promoting his own interests, but from a wish to promote the welfare of his fellow-countrymen — not from a mere desire to advance their rights as Englishmen, but from a desire to advance the rights of our common humanity. Nay, more, he would say, that he considered the sneers of those who opposed his noble Friend's views a higher compliment to his noble Friend's character than the most laboured eulogy that could be passed upon it.

Lord *John Russell* said, that however he might be obliged to meet this motion, which imputed blame to the House of Commons, not only for its conduct during the last three years, but also most particularly for its vote on the 22d of June last, although he might consider it almost as a motion without precedent, seeing that it assumed the appearance of a motion of resentment for their non-attendance on a former occasion, when the noble Lord wished to make a speech upon it, still he would not deviate so far from the practice of Parliament as to attribute to the noble Lord any other motive for bringing it forward than an overstrained zeal for the interests of humanity. He must, however, observe, that upon this occasion, this question had assumed an appearance, which it had not assumed on any previous occasion at which it had been mooted. For many years this question had interested every man who felt for the hardships and endurance of that part of our population which was engaged in manufactures; and, accordingly, different persons—some taking a view on one side, and some on another—had brought forward bills to alleviate those hardships, and to diminish that endurance. Among other persons, his right hon. Friend, the Member for Nottingham, had brought forward a bill upon this subject, founded upon his own individual views. That bill was not considered by those who then acted politically in concert with his right hon. Friend, as a measure which they could use as a party weapon against the Government of the day. They did not think it a question which might be converted into a great political engine from which they might themselves derive great party advantages. This year, however, for the first time, and especially since the day on which the noble Lord brought forward his first motion, it had become clear, even to the most obscure vision, that there was an intention among the hon. Gentlemen opposite, to derive, if they could, a party advantage from the noble Lord's motion. If he had had any doubts, and he confessed, that he had had doubts, whether the Factory Bill should be one of the bills, which, on a former evening, he proposed to renounce for the present, and to bring forward again in the next Session of Parliament, the discussion of that night would have been sufficient to remove them; for it had convinced him, that it would not have been expedient to bring forward such a measure at the close of June, and to have renounced other bills for it: for, although it was but an explanatory bill, intended to make clear enactments which were already to be found in the statute book, it would have been impossible to have discussed it without bringing into collision opinions diametrically contrary to each other. The House had heard certain opinions from the hon. Member for Salford—opinions which he had also heard from several deputations which had waited upon him—that the hours of labour ought to be fixed; that the poor should be protected, not only from their employers, but also from themselves; that one man should not be allowed to employ another for such a length of time as the cupidity of the one might ask, and the poverty of the other might induce him to consent to;

but that both should be bound to a certain period of time, which ought on no account to be exceeded. That was the view of one party to this question, whilst, on the other side, the view was, that all legislation of this kind must of necessity fail, and that it was useless, and worse than useless, to contemplate any control of this kind over the market of labour. Now, with such conflicting opinions, would not the Committee on the different clauses of this bill have taken up nearly the whole remainder of the present Session? Let the House, too, recollect how many extraneous subjects had been introduced already into this debate. His hon. Friends, the Member for Wiltshire and the Member for the University of Oxford, had prayed, that no discussion upon the corn laws might be introduced into this debate. Now, was it not inevitable, that if the factory question were discussed night after night, the question of the corn laws, as affecting the manufacturing population, must be discussed along with it? Suppose that it were urged on the one side, that there ought to be a ten hours' bill, as it was called, for the protection of infant labour. His hon. Friend, the Member for Salford, knew well—no man better—that, in the present condition of the manufacturing world, we could not, with restricted hours of labour, compete with other nations, whose sovereigns could say to our artisans, "Come here to us; you shall have unrestricted hours of labour, and, along with them, you shall have cheap bread." If hon. Gentlemen should find themselves by the lures they were holding out to the people masters of a ten hours' bill, they would also find themselves in a condition which would drive all our manufacturers abroad; and it would not then be a question as to working, as it was called, the blood and sinews of these children—no, they would be in a state which would render them unable to obtain that bread on which their very existence depended. With restricted hours of labour there would come diminished wages, and, under such circumstances, how could you keep the corn laws out of the consideration of the people, and how could you say to them, that they should not have bread as cheap here as they could purchase it elsewhere? But it was said, that there was a great number of offences against the present act. For his own part, he did not see how that could justly be attributed as a fault to the act itself. He was convinced, that until they had extinguished poaching by their game laws, smuggling by their revenue laws, and bribery by their election laws, they would never by any factory law prevent overworking where cupidity on the one hand, and a desire to gain on the other, urged men to labour. He did not wish, on the present occasion, to discuss the policy of the Factory Act, or to enter into any refutation of the various extraordinary statements which the noble Lord had introduced into his opening speech. One remark, however, he could not refrain from making, and that was, that the noble Lord had been most careful in quoting every passage from the report which was calculated to show the deficiencies of the existing act, and that he had been equally careful in suppressing every passage of it which had the slightest tendency to show the advantages of it. The noble Lord had been ready to agree, that, generally speaking, the inspectors had exhibited great zeal in the discharge of their duties; and that it was not from a want of will, but from a want of power, that they had not carried the law more fully into effect. The noble Lord, however, in adverting to the report of Mr. Horner, had said, that it convinced him, that a gross violation of the law had taken place, and had referred, in proof of it, to the instructions which that gentleman had sent to the surgeons in his district. By the present law of England you had no positive means of ascertaining the exact age of a child about nine or thirteen years of age. The act, therefore, required that with respect to children of nine years of age, a certificate should be produced, shewing, that they had the strength of children of nine years old, and that another certificate should be produced when they were thirteen, shewing, that they had the strength of children of that age, not specifying, however, what the certificates should be. Now, Mr. Horner knew well, that there were many violations of this law. He knew, that many children were stated to be thirteen years of age who were not so. Therefore, from his great anxiety to carry the law into effect, he told the surgeons in his district, that it would not be sufficient for them to have the age of the children told to them by the children themselves, but that they themselves must inquire into the matter, and take care before they granted their certificates, that the children had the strength and appearance of thirteen years of age. But, that was a point which the noble Lord had altogether omitted to state, for it would not have suited his purpose. The noble Lord stopped in the very middle of a sentence. [The noble Lord read that part of Mr. Horner's instructions quoted by Lord Ashley, in which the surgeons were told, that they were not to ask a question of the child as to the child's age.] Why had the noble Lord stopped there? Why had he not read the next sentence, which would have given the reason for that instruction? That reason was couched in these words—"for the probability is, that a true answer to your question will not be given by the child." Mr. Horner knew, that the people to whom he addressed himself were in the habit of taking the statements of the children as to their age, and he knew, also, that those statements were in most cases false, and, therefore he told the surgeons, not to take the statements of the children themselves, but to make inquiry elsewhere as to their ages. Mr. Horner, however, had been guilty of an error of considerable extent when he stated to the surgeons, that the strength of the child was the object to which their attention should be called, and not the determination of its age, and that, therefore, they would be justified in inserting twelve in the certificate in case they found a child more than twelve years of age, but of inferior strength, and in inserting thirteen in the certificate in case they found a child of not more than twelve years of age with such an unusual degree of developement as to have the appearance of thirteen years of age. If the House would only take all this into consideration, they could come to no other result but this—that Mr. Horner was anxious that no child should be employed as a child of thirteen years of age unless he had the strength and appearance of it. He must, however, confess that in this respect Mr. Horner had gone further than the opinion of the law officers of the Crown, which had been laid before him, warranted; and that he had fallen into an error in supposing that the mill-owners might employ as a child of thirteen, a child who had not reached that age, but who had the strength of a child of that age. A representation had been made to him (Lord J. Russell) upon that subject, and his attention had been called to the following instructions, which had been issued by Mr. Horner—"A certificate may be an authentic extract from the parish register, stating the baptism of the child, or it may be a medical certificate, like that given in the case where the child is nine years old." It was undoubtedly true that a memorial had been sent to him, stating that under that instruction children under thirteen years of age had been employed as if they had been thirteen years old. Now, certainly, that had never been his intention, nor the intention of the act. He had therefore applied again to the law-officers of the Crown, and they were decidedly of opinion that Mr. Horner had acted erroneously in issuing that instruction. It was evident from all this that Mr. Horner had intended to carry the act into effect honestly and faithfully, and that he had unintentionally fallen into an error as to the construction of the act and of the law officers of the Crown. Whether the noble Lord opposite would admit such to be the fact or not, he could not tell; but this he would say, that the view which the noble Lord had taken of Mr. Horner's conduct was anything but fair or candid. It was a specimen of the spirit which animated the noble Lord throughout all this discussion. The noble Lord had culled out of the Report particular statements, and particular sentences, which suited his own views, and had called upon the House to note in how many different respects there were violations of the law; but he had, at the same time, before him repeated statements of the vigilance which the inspectors exercised over the mills under their superintendance, repeated statements of the visits which they made to them, repeated statements of the increased and increasing enforcement of the law, and repeated statements of the improved feeling among the millowners themselves, as evinced by their disposition to conform to the law. And yet, of all these statements, the noble Lord appeared to take no heed whatsoever. He had been reminded by his right hon. Friend, the President of the Board of Trade, that the noble Lord had himself borne testimony to the vigilance of the inspectors, and had called the attention of the House to the fact, that they wished the law to be made at once more clear and more stringent. He agreed with them that the law ought to be made more clear and stringent, but whenever the House came to the discussion of that subject, they might depend upon it, that there would be a contest raised, in which it would be insisted on the one hand that you should fix the hours of labour for adults as well as for children, and on the other that you should leave labour free from any legislative interference. He hoped, that the House would not come to the conclusion, " that this House deeply regretted that the law affecting the regulation of the labour of children in factories, having been found imperfect and ineffective to the purpose for which it was passed, had been suffered to continue so long without amendment." That might be fit language for a petition to that House, but that the House itself should come to a resolution deploring their own conduct in attending to the settlement of the Civil List, to the passing of the Canada Bill, the Irish Poor Bill, the Municipal Reform (Ireland) Bill, and to the Irish Tithe Bill, not forgetting the adjourned debate as to changing the polling-place at Hawick, and in not attending to the Factory Bill, appeared to him to be such a ridiculous termination of their labours, and to be such an act of gross injustice to themselves, that he trusted they would never adopt it. He had been very much urged to drop several bills, in order that the Session might close the more speedily. Some of those were important bills, of which he very much regretted the postponement. He would instance, particularly, the bill for the more frequent holding of Quarter Sessions. Had that bill been passed, prisoners, who under the present system would be confined for a period of eight or ten weeks, would not remain in prison for more than four or five weeks previous to trial. With reference to that bill the hon. Member for Kilkenny had as much right as the noble Lord to get up and propose a resolution of regret, that the bill should not have been passed during the course of the present Session. After all they had heard that night, it was quite clear, that they could not have gone into the subject without raising a very lengthened discussion, and producing the utmost excitement in the manufacturing districts, excitement to which he hoped that the vote of the present evening would put a stop.

Mr. *Goulburn* said, that if there were any thing ridiculous in the course which the House was called on to pursue—an allegation which he distinctly denied—if there were any thing improper or inconsistent in that course, it was attributable, not to his noble Friend who had introduced the present motion, or to those who supported it, but to the conduct which Government had pursued with reference to this matter. If the House had not enjoyed the opportunity of discussing the provisions of a bill to give effect to the existing law upon the subject of factory regulations, this was not attributable to his noble Friend behind him. And if by that prohibition hon. Members at his side of the House were driven to the necessity of pressing for a fulfilment of the promise which the Government had made instead of suffering those promises, like others which had proceeded from the same quarter, to be abandoned and neglected —if they were driven to that necessity, it was in consequence of the course which had been pursued by hon. Gentlemen opposite. But he denied, that there was anything either inconsistent with the practice of the House, or ridiculous in itself, in the course which was now recommended to the House. The House was called on to do that which had been frequently done before by a resolution of the House to express its regret at the state of the law upon a particular question. He regretted, in common with his noble Friend, that the question with reference to factories had not been brought to a settlement during the present Session, and, having no other opportunity, of expressing his views and wishes on the subject, he had taken in common with his noble Friend the only course which was open to him of recording his opinion with reference to this matter, and endeavouring to prevail on the House to come to this resolution. The noble Lord opposite had alluded to several questions by which the time of the House had been occupied during the present Session, and amongst others he had referred to the debate with reference to the proceedings at the Roxburgh election. Let him ask the noble Lord at whose suggestion was that debate protracted? Who was it, that would not permit the question to rest upon the single night's debate? Why it was the noble Lord opposite and his Friends, through whose instrumentality the House had occupied during a second night's debate that time which he admitted with the noble Lord might have been much better employed in enforcing the law with respect to factories. "But" said the noble Lord, "you give a different complexion to the discussion now; you are using it as an instrument against the Government, and making that a party question which ought to be divested of party considerations." This was a sentiment in which he fully concurred. He wished that this question could, and he certainly thought, that it ought to be considered independently of party. He had no party feeling in the matter. He had divided upon this very question against his right hon. Friend, the Member for Tamworth. So far from considering it a party question, he had taken that line which on any public question it was most painful for him to pursue—that of separating himself from one for whom he entertained the highest respect and regard. If, therefore, this was likely to become a party question, the noble Lord opposite would have to answer. When his noble Friend brought forward this question he was anxious to deal with it as it should be dealt with—as it had been dealt with by his right hon. Friend, the Member for Nottingham, when he had taken it up, and as it had been dealt with at an antecedent period by Sir Rober Peel. His noble Friend had been anxious to treat it in a similar spirit; but he had been repeatedly advised to leave the question in the hands of the Government who took it into their own charge. It should never be forgotten that it was by their own solicitation, that the Government had taken from the noble Lord the moving of a question which he had in the first instance proposed to bring forward; and if blame was now attached to the conduct of Government, it was because, having prevented the discussion of this question while it remained in the hands of his noble Friend, they had defeated his noble Friend's object by a subsequent abandonment of the measure, which they had solemnly promised to introduce. They had thus taken the question out of the hands of one who was admirably qualified for the task of submitting it to the House and who felt the greatest interest in its details, and had taken it into their own hands for the sole purpose of effecting its defeat. He asked for no limitation of adult labour, for no fetter upon steam power in manufactures. Adult persons were of sufficient age, and must be supposed to be possessed of sufficient discretion to take care of themselves. But it was not so with children of a tender age. He did not now speak the opinions of persons actuated by a high and excited feeling of humanity. He entered into no feeling whatever, that was not shared in and acted upon by men the most conversant with the manufacturing interests of this country. The hon. Member for Salford had told them upon this occasion. that these children absolutely required some legislative protection to prevent them from being overworked, and, as a consequence, perhaps seriously injured. And who was it that had submitted a regulation to that House with respect to these children's labour? Was it an individual hostile to the Government of the day, or actuated by excited feelings? No; it was the late Sir Robert Peel, the man, who, of all others was, perhaps, the best acquainted with the subject. When he first introduced the subject of a cotton factories' regulation into Parliament, he had to contend with an opposition still stronger than that which existed on the present occasion. But he had nevertheless strongly urged the necessity of Parliament extending its protection to those who were engaged in that manufacture. The motion of his noble Friend was not open, therefore, to the imputation of anything either novel or ridiculous. As the progress of manufactures went on, the necessity of employing a greater number of children became daily more apparent, and proportional to that increase was the increasing necessity of protecting the children employed in the factories. But the question now before the House was not merely whether they should extend to the children in the factories that protection which their situation imperatively demanded; the question was of another character; it was whether, having a law which directed, that certain rules should be observed in the factories, which Parliament in its wisdom thought necessary for the defence of the otherwise defenceless, that law was to remain a dead letter on the statute-book, or, whether the necessary steps should be taken to enforce it. It had been admitted by the hon. Gentleman, the Under Secretary of State, that scarcely in any respect had the law been adequately enforced—that the rules respecting education had been altogether neglected, and that the penalties were too low to enforce obedience to the law. And there was this still stranger admission which had been made by the Government, in the introduction by them of a bill which, in many respects, afforded an adequate remedy for some of the evils complained of. Was it unreasonable, then, in hon. Members to say—"Will you permit that law to remain a dead letter, or will you do that which is necessary to enforce it? This was an alternative from which he did not see how they could retreat. "But you cannot," said the noble Lord opposite, "in all circumstances, secure the observance of the law;" and he had instanced the game laws and other matters, deducing thence as an inference that it was better not to legislate at all. To say that, because the law was violated, this was a reason why you should forbear to strengthen by additional legislation the provisions of the existing law, was the strangest argument which he had ever heard proceeding from the lips of one, the first duty of whose situation was to see that the law of the country was enforced. With him (Mr. Goulburn) that argument had no weight whatever. What did weigh with him was the fact that the existing law was violated to an enormous extent, and that these violations were not casual, but, as appeared from the reports of the inspectors, systematic violations, the punishment of which was defeated by the enactments of the law itself. Such being the case, surely this was not a state of things which any country that had a right to be proud of its legislation, ought to permit to continue for an instant. Government might give them renewed assurances that they would introduce a bill during the next Session of Parliament. With this assurance, he might be content, had he not from experience been made acquainted with the result of other assurances upon the part of the Government. In 1836, the President of the Board of Trade had given a distinct assurance of his *bona fide* intention to enforce the existing law. What did the report of the inspectors say upon the subject? That the law was in such a state, that it could not be enforced without the introduction of a different enactment. Notwithstanding this declaration, however, no attempt whatever had been made to carry through Parliament the measure which was pronounced to be necessary to enforce the law. With respect to the case of Mr. Horner, upon which the noble Lord opposite had dwelt, he begged to be understood as conveying no imputation whatever against the character of that gentleman. If Mr. Horner had misunderstood the law, and acted upon his conscientious interpretation of its provisions, he should be very sorry to endeavour to throw obloquy on a gentleman, who, however, he might have erred in interpreting the law, was undoubtedly entitled to respect. But what his noble Friend complained of was, not the conduct of Mr. Horner, but the effect of the error which had been thus committed. Let them look to the mode in which that error operated in the factories; let them see how many children of tender years, whose daily period of work was limited by the law to ten hours, had that period raised to twelve hours by this misconstruction. He denounced the system as one which led to an utter violation of the spirit, as well as the letter, of the Act of Parliament. He, therefore, cheerfully supported the motion of his noble Friend, which, he trusted, would, at least, be productive of this good consequence—that in the next Session, Government would come forward with a measure to amend the glaring defects of the existing law, brought distinctly as those defects had been under the consideration of Parliament.

Mr. *Hume* thought, that if any doubt as to this motion having been brought forward for party purposes, had existed previously, the speech of the right hon. Gentleman would have the effect of completely removing it. The right hon. Gentleman had, indeed, avowed as much. He had admitted, that he came forward to cast blame upon the Government. He pitied the hon. Gentleman, that they had no other means of annoying the Government, than the factory question. For his part, he was glad when he ascertained that the bill had been dropped. He had opposed it at first. He had told the noble Lord, that if it could be possibly carried, its effect would be to ruin the manufacturing districts, and that, instead of serving, it would have the effect of seriously oppressing the factory children. The hon. Member for Salford had truly said, it was worse than useless. It would be impossible to carry out the bill—it would be impracticable, if they wished to allow the manufacturers to continue, or the labourers to have bread to eat. The noble Lord (Lord Ashley) appeared to think, that the noble Lord at that side of the House (Lord John Russell) was to blame for not having introduced and carried through the bill; if that were the fact, he had a greater right to blame him, for not having brought forward the County Courts Bill. Every tenth day since the Session had commenced he had asked about it, and after all the promises of the noble Lord it had not as yet been passed. But the right hon. Baronet opposite had himself evinced an anxiety to have other business postponed, and other bills dropped, although he was now so anxious to blame the Government for a similar course upon this bill. If it had been brought on he should have opposed it, for he considered it opposed to the laws of nature. He agreed with the hon. Member for Dublin that the inconsistency of hon. Gentlemen upon this subject was quite revolting. It was a serious thing to interfere with the tender offspring of men or brutes. It was a delicate matter to interfere between children and their mothers. The real question was the corn laws, for they produced nearly all the evils that were attributed to the factory system; and if those gentlemen were anxious to improve the condition of the people in the manufacturing districts they should look to the corn laws. It was the pressure of the corn laws which gentlemen opposite supported, that obliged persons to work in English factories for twelve, thirteen, or fourteen hours, whilst in similar establishments upon the Continent they only worked for ten hours. The prices of corn on the Continent were far lower than in England. The hon. Member read a return of the prices of corn at Berlin, Hamburgh, Antwerp, Stettin, and Amsterdam, and proceeded to say, the average price of corn on the Continent was 43*s.* 4*d.*, whilst the average price in England was 70*s.* to 71*s.* and 6*d.* It was by removing the causes of this high price of corn that they would support the interest of the manufacturers by enabling them to obtain cheap bread. The best way to increase the power of this country was by encouraging its manufactures. Poland was as fertile a country as England, but she was not as great, because she had not manufactures. He thought that the bill, if introduced, would be injurious to the manufacturing interests, and as such he should oppose it. He was strongly of opinion that this subject was brought forward from party purposes, and he hoped the House would concur in opinion with him, and negative the motion.

Mr. *Aglionby* could not give a silent vote upon the motion of the noble Lord, and he was obliged to give a vote in opposition to the opinions of those hon. Members with whom he generally voted, and in support of the motion. Perhaps he was in error, and indeed, when he considered those who were opposed to him upon the subject, he feared he was in error, but he was acting from a sense of right. The children required to be protected as much from their parents as from the masters who employ them. They had it before them in evidence that parents lived in idleness upon the money which was earned by the labour of their children for twelve, perhaps for fifteen hours a-day. He would not advocate any interference between the masters and the adults, but it was upon the part of the children they were called upon to legislate, and a feeling of the necessity of affording them protection, induced him to give the vote which he intended. The hon. Member for Kilkenny had said, that to find them cheap bread was the true mode of ameliorating their condition. He was as anxious to improve the condition of the working people in that respect, as any one. He wished to see them fed and educated, but at the same time he wished to see protection extended towards the defenceless children, and he felt that they should not rest satisfied until they had accomplished that object by legislation. It was the duty of the Government to protect those children from the inhumanity of obliging them to work for a number of hours beyond their strength and years; they were especially called upon to amend the existing law, and make it in effect what it was intended to be in principle. If the votes in support of the motion were to be reckoned a vote of censure, he could not help it, for he felt bound in justice to support any motion calculated to induce the enactment of a law, which would be sufficient to render the existing law effective.

Mr. *Fielden* supported the motion. The hon. Member was understood to say, that the Government did not dare to execute the law for the regulation of factory labour for fear of the master manufacturers' influence against them. If a Ten Hours' Bill had been originally passed, the entire question would have been long since set at rest. It was one of the strongest signs of weakness which the Government could exhibit to decline to entertain the subject.

Lord *J. Russell* in reply to the charge of the hon. Member, that the Government dared not execute the law in respect to the Factory Regulation Act, could tell the hon. Member, that he was quite mistaken; and he could also assure him that they dared execute that or any other law which existed in the statute book of the country. The hon. Gentleman should also know, that if threats were used against those intrusted with the execution of the laws, there were others in that House who would protect them.

Mr. *Fielden* argued that Government dared not execute the law, because, notwithstanding its repeated infringement, they had not hitherto done so.

Mr. *M. Philips* said, that the interpretation put on the words of the noble Lord were not by any means fair or candid. The noble Lord had only justified the Government in not carrying the law in question into effect, on the grounds that every other law was, in a greater or lesser degree, infringed on likewise. An injustice had been also done to his right hon. Friend, the President of the Board of Trade when he was taxed with countenancing a breach of duty on the part of the factory inspectors. He should never be found attempting to justify in the slightest degree the infringement of the factory law by the masters; but he felt bound to say, that the cupidity of parents was in most cases as much to blame as the cupidity of the manufacturers. He thought the present Session was not the best time for introducing any measure on the subject, inasmuch as it necessarily involved many other questions, such as national education, the Corn-laws, &c., before it could be satisfactorily settled: but he hoped that one would be introduced in the next Session, and he should then give it his best consideration. The noble Lord opposite had used very strong language in reference to the manufacturers—he had termed them "merciless," "grasping," "griping," and so on. Did the Noble Lord mean to apply those terms generally to that large body of men. [Lord *Ashley*—No, no.] Or did he only mean to give them an individual application? There were as many honorable and high-minded men in that class of the community as in any other whatever; and who, for humanity and every other virtue, as little deserved the opprobrious stigma cast upon them by the noble Lord as any men in the community. With respect to the general question there were a great many difficulties to contend with, not the least of which was the anxiety of parents to make their children older than they really were; and the House should take them all into consideration before it pronounced upon the subject or acquiesced in the motion of the noble Lord.

Sir C. *Knightley*, in reference to the observations of the hon. Member for Kilkenny respecting the difference between the price of corn at Hamburgh, and generally on the continent, and the price of corn in England, begged to say, that the comparison sought to be established by the hon. Member's inference was quite invidious. When the hon. Member was prepared to prove, that the rate of wages in England was not double the rate of wages in those countries, he would admit the force of his argument, but not until then. If the hon. Member succeeded in showing him that the rate of wages in Hamburgh was equal to the rate of wages in England, while in the latter country corn was double the price that it was in the former, he should do for once, in respect of the corn laws, what he had never yet done in his life-time—vote with the hon. Member for Kilkenny.

Sir *C. Grey* said, that it was not his intention to give an opinion on the merits of this question, as he was not acquainted with its details, but he rose to object to the form of this motion, as he conceived it to affect the rights and privileges of the House. The present motion conveyed a vote of censure on Ministers for not bringing forward and carrying a particular bill. Now, he would say, that the House could only agree to this motion if they recognized the existence of a body in that House who could carry any measure they pleased. To this proposition all the principles which he had imbibed from the reading and study of the constitution were repugnant, and he could never subscribe to it.

Lord *Ashley* was aware that he was not, by the forms of debate entitled to a reply, but he craved the indulgence of the House to answer one or two observations of the noble Lord opposite. He understood, for he was not present at the time, that the noble Lord had said the question had now become a party question, and that it had been brought forward in a party spirit. Of course that involved a serious charge against him, that he had suffered a great question involving the rights of humanity to be perverted into an instrument to work out a mere party purpose. Now he might be allowed to say that such assertions were more easily preferred than proved—and to assure the noble Lord that he considered the subject involved in the question of too high and too sacred a character to be made an instrument for the purposes of any party. He had undertaken the heavy responsibility attaching to its charge from motives far higher than those which actuated partisans in general; and those motives he should adhere to while he had the power of urging the subject on the attention of the Legislature. He might be permitted to add, that no change which could by any possibility whatever take place in the position of the noble Lord opposite towards him and his friends, should have the effect of altering his fixed and uniform course of proceeding in regard to this question. It had been objected to him that he used strong language in his advocacy of the question—if he did, he applied it only to the actions and not to the motives of those individuals to whom he was under the necessity of alluding. The noble Lord had charged him with making unfair selections from the reports of the inspectors in support of his case; to this he could only answer that he took them as he found them, and if they made against those who were charged with the execution of the law it was not his fault but theirs.

Mr. *Wallace* rose to order. The noble Lord had taken a privilege which had been more than once denied to him, and many other hon. Members in similar circumstances—that of reply. He, therefore, called on the Speaker to know by what right, or why the noble Lord claimed and exercised that privilege?

Lord *Ashley* would save the right hon. Gentleman the trouble of deciding, as he would not proceed further in the remarks he was addressing to the House.

The House divided on the original question. Ayes 121; Noes 106;—Majority 15.

List of the AYES.

Alston, R.
Archbold, R.
Bainbridge, E. T.
Baines, E.
Bannerman, A.
Barnard, E. G.
Bellew, R. M.
Berkeley, hon. C.
Bernal, R.
Blake, M. J.
Brodie, W. B.
Brotherton, J.
Buller, E.
Byng, G.
Campbell, Sir J.
Chalmers, P.
Chichester, J. P. B.
Childers, J. W.
Clay, W.
Clements, Viscount
Collins, W.
Crawley, S.
Crompton, Sir S.
Curry, W.
Dalmeney, Lord
Divett, E.
Duckworth, S.
Easthope, J.
Elliott, hon. J. E.
Etwall, R.
Evans, G.
Ferguson, Sir R. A.
Ferguson, R.
Finch, F.
Fitzroy, Lord C.
French, F.
Gillon, W. D.
Gordon, R.
Grey, Sir C. E.
Grey, Sir G.
Grosvenor, Lord R.
Hall, Sir B.
Handley, H.
Hastie, A.
Hawes, B.
Hayter, W. G.
Hill, Lord A. M. C.
Hobhouse, rt.hn.Sir J.
Hobhouse, T. B.
Hollond, R.
Hoskins, K.
Howard, P. H.
Howard, Sir R.
Howick, Viscount
Hume, J.
Hurst, R. H.
Hutt, W.
Hutton, R.
Labouchere, rt. hn. H.
Langdale, hon. C.
Lefevre, C. S.
Lushington, C.
Lynch, A. H.
Macleod, R.
Macnamara, Major
Maher, J.
Martin, J.
Martin, T. B.
Maule, hon. F.
Morpeth, Viscount
Murray, rt. hn. J. A.
Muskett, G. A.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Page F .
Parke J .
Parker, R. T.
Parnell, rt hn. Sir H.
Pechel, Captain
Pendarves, E. W. W.
Philips, M.
Pinney, W.
Price, Sir R.
Pryme, G.
Redington, T. N.
Rice, rt. hon. T. S.
Roche, E. B.
Roche, Sir D.
Rolfe, Sir R. M.
Russell, Lord J.
Salwey, Colonel
Sanford, E. A.
Seymour, Lord
Sheil, R. L.
Smith, J. A.
Smith, B.
Smith, R. V.
Somerville, Sir W. M.
Stewart, J.
Stuart, Lord J.
Strutt, E.
Surrey, Earl of
Thompson, rt.hn. C.P.
Thornley, T.
Troubridge, Sir E. T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Vivian, rt. hn.Sir R.H.
Wall, C. B.
Wallace, L.
Warburton, H.
White, A.
Williams, W. A.
Wood, C.
Wood, Sir M.
Wood, G. W.
Yates, J. A.

TELLERS.

Stanley, E. J.
Steuart, R.

List of the NOES.

Acland, Sir T. D.
Acland, T. D.
Aglionby, H. A.
Alsager, Captain
Arbuthnot, hon. H.
Bagge, W.
Baillie, Colonel
Baker, E.
Baring, H. B.
Bateson, Sir R.
Benett, J.
Bentinck, Lord G.
Blackburne, I.
Blackstone, W. S.
Bowes, J.
Bradshaw, J.
Broadley, H.
Broadwood, H.
Brownrigg, S.
Bruges, W. H. L.

Bryan, G.
Burrell. Sir C.
Canning, rt. hn. Sir S.
Chute, W. L. W.
Coote, Sir C.
Corry, hon. H.
Dalrymple, Sir A.
Darby, G.
De Horsey, S. H.
Dick, Q.
Douglas, Sir C. E.
Duffield, T.
Dunbar, G.
Eaton, R. J.
Eliot, Lord
Ellis, J.
Estcourt, T.
Farnham, E. B.
Fielden, J.
Filmer, Sir E.
Fitzroy, hon. H.
Follett, Sir W.
Gibson, T.
Gladstone, W. E.
Gordon, hon. Captn.
Gore, O. W.
Goulburn, rt. hon. H.
Graham, rt. hn. Sir J.
Grant, F. W.
Grimsditch, T.
Hardinge, rt.hn.Sir H.
Hayes, Sir E.
Herbert, hon. S.
Hillsborough, Earl
Hindley, C.
Hodgson, R.
Hogg, J. W.
Hope, hon. C.
Hope, G. W.
Inglis, Sir R. H.
James, Sir W. C.
Jones, T.
Kemble, H.
Knightly, Sir C.
Lefroy, rt. hon. T.
Lincoln, Earl
Lockhart, A. M.
Lowther, J. H.
Lucas, E.
Mackenzie, T.
Maclean, D.
Milnes, R. M.
Monypenny, T. G.
Neeld, J.
Norreys, Lord
Ossulston, Lord
Pakington, J. S.
Palmer, G.
Pemberton, T.
Perceval, Colonel
Perceval, hon. G. J.
Praed, W. M.
Praed, W. T.
Richards, R.
Rose, rt. hon. Sir G.
Round, J.
Rushbrooke, Colonel
Rushout, G.
Scarlett, hon. J. Y.
Sheppard, T.
Sibthorp, Colonel
Sinclair, Sir G.
Smith, A.
Spry, Sir S. T.
Sturt, H. C.
Style, Sir C.
Teignmouth, Lord
Thomas, Col. H.
Thompson, Alderman
Vere, Sir C. B.
Verner, Colonel
Vivian, J. E.
Waddington, H. S.
Williams, W.
Wilmot, Sir J. E.
Wodehouse, E.

TELLERS.

Ashley, Lord
Fremantle, Sir T.

House went into Committee.

Lord *J. Russell* at that hour would merely move, that the chairman report progress and ask leave to sit again.

PUBLIC COMMISSIONS.] Colonel Sibthorpe rose to complain of this step of the noble Lord when he had a motion on the paper which he would say was of the utmost importance to the House, to the country, and particularly to his own constituents. Three of the returns which had been made to motions of his, respecting the expenses of the various commissions issued by Government, were palpably incorrect, and he believed designedly so, and he was desirous to inquire into the history of the expenses of these commissions, and to prove before a committee that they had cost not less than two millions of money, without producing any one advantage to the country. He would tell the noble Lord, that if he was prepared, as was probable, to refuse this committee, he would be wanting in his duty to the public and himself, and he would tell him, moreover, that he was afraid, as a Minister of the Crown, of this investigation. In one of the returns to which he had referred the salaries of the Poor Law Commissioners, their officers, and assistants, were stated at one amount, and in another and subsequent return at another amount; and he thought the public had a right to know why different sums were returned as having been granted in these two cases. He moved that a select committee be appointed to inquire into the various commissions that have been issued since the year 1830 to the present time.

The *Chairman* said, that now he understood the motion of the hon. and gallant Member, he must remind him that it could not be entertained in a committee, but must be moved in the whole House.

Colonel *Sibthorp* must of course submit to the rules o f he House.

The House resumed, the Committee to sit again.

POOR-LAW COMMISSIONERS.] On the motion of the Chancellor of the Exchequer that the resolution containing a grant of 54,250*l.*, expenses of the New Poor Law Commission, be read a second time.

Mr. *Grimsditch* objected to it on the ground that the expenditure was most extravagant. The Poor-law Commission had in fact been increasing every year. In addition to the three commissioners, there were now three secretaries, all barristers, and 21 assistant commissioners, who received salaries amounting annually to 40,000*l.* After so large a sum as that, which in itself was highly objectionable, he thought it too much to call upon the House to sanction the payment of 3,000*l.* for professional assistance, the whole of the legal expenses amounting to upwards of 5,000*l.* a-year. He objected likewise although it was not his intention to propose any amendment in the present state of the House, to many other of the expenses of the commission, especially as he believed that the operation of the New Poor-law system was generally injurious. Of its injurious tendency in his part of the country he had no doubt whatever.

Colonel *Sibthorpe* hoped that what had fallen from the hon. Gentleman would receive the attentive consideration of the Chancellor of the Exchequer, and the other Members of her Majesty's Government. The subject was one which ought to be strictly investigated.

The *Chancellor of the Exchequer* assured the hon. Gentleman, that under this head of expenditure the greatest economy had been enforced. When the extent of the grant was talked of, it should be remembered that the most pressing applications were made from the country for assistance to carry into effect the provisions of this bill, and those applications had caused a great increase of expenditure. If any complaint was made that 40,000*l.* was required, it should also be remembered that the new law had saved the country two millions of money in the reduction of poor-rates. The charge for legal advice formerly amounted to half a million of money.

The resolution was agreed to.

HOUSE OF COMMONS,

Saturday, July 21, 1838.

MINUTES.] Bills. Read a second time:—Customs.—Read a third time:—Chancery (Ireland); Land Tax Redemption.

Petitions presented. By Lord G. BENTINCK, Mr. A. WHITE, and Mr. E. BULLER, from several places, against the encouragement of Idolatrous Worship in India.—By Sir W. FOLLETT, from Exeter, for support to the Established Church in Canada.—By Mr. M. PHILIPS, from the Directors of the Manchester Railway Company, from the Bankers, Merchants, and Traders of any distinction in Manchester, and also from the Chamber of Commerce in Manchester, against the Mails on Railways Bill.

MAILS ON RAILWAYS.] On the motion of Mr. Labouchere the Order of the day for the House going into Committee on the Mails on Railways Bill, was read.

Mr. *Wallace* said, that in rising to bring before the consideration of the House in the most prominent form, the question involved in this bill, he meant to do so as briefly as he could. The subject he conceived to be one of paramount importance; it was untried, and it was equally new to the House and the country. He wished, first, to declare his unqualified approbation of railways, and to state his desire to see them extended all over the country. In entertaining that wish he must, however, say that he was completely hostile to all monopolies, and he thought that the railway proprietors had obtained a monopoly which must prove exceedingly injurious to the country if not timeously checked. He must observe that a bill had been two years ago introduced by an hon. Member who had not then a seat in the House; but who, for some reason that he could not divine had afterwards withdrawn that most useful bill from the consideration of the House. That bill went to provide for the periodical revision of tolls levied on railways. Now, he begged to state to the Government and the country that he believed the time had arrived when the Queen's Government ought to take into consideration the propriety of acting on the principle of the bill which was then in his hand—No. 395 of the Session of 1836—and which had been introduced by Mr. Morrison and Mr. Gibson, and by which it was declared that the tolls levied upon railways should be revised periodically, for the purpose of seeing that no monopoly existed, and for giving the country the benefit of any improvement in the system of railways. The effects of railways it was plain had not been foreseen by that House; and when he made his remarks on this point, the Chancellor of the Exchequer had said, that it would be easy to regulate their charges, as the Government had the power of taxing railways. But what was the fact?—that when the duty was raised on the Manchester and Liverpool Railway, the company added fifty per cent. upon the passengers; and thus the public suffered extremely, and the Government only received the half of what was imposed. He conceived that full remuneration ought to be given for property invested in railways; but then he proposed that railway proprietors should not have a monopoly, or power of preventing free travelling through the country to the exclusion of all classes, but that these classes should have the convenience and advantage of passing along these railways. In authorising companies to construct railways, the condition was, that they should be permitted to take moderate profits in return for their capital. In the revision of these matters which he wished to take place he believed, that the House should demand that all railway companies ought to be bound to expose their accounts once a-year, and thus to show how far they convenienced the commerce of the country, and how far they did not do so. He distinctly denied that the railways had received exclusive privileges. He did not see that the substance they used in the construction of their roads gave them superior advantages over others who made their roads of stone or of wood. He did not see that their using iron gave them a right to treat the people as they chose. With regard to the bill before the House, he was very much surprised to find, that the Government had considered it to be their duty to alter the resolutions which had been agreed to so unanimously by that committee of which the hon. Gentleman opposite was so excellent and so attentive a chairman. The principle laid down by that committee was, that on railways, as on common roads, the mails should be permitted to pass free of tolls. That was a principle recognised in England, and it was the law and the practice in Ireland. It was, too, distinctly the law and the practice in Scotland, until the good jobbing days of Henry Dundas, when his countrymen, who never lost an opportunity of effecting that which might be useful and convenient to themselves, contrived to have tolls upon mails, and this too for the advantage of their own trustees. Those days had, however, now passed by, and the time had come when men in that House could distinctly pronounce their opinion respecting them. At present, however, in Scotland, carriages with passengers were only subject to tolls; and now if the postmaster chose to have the mails carried in coaches without passengers they must pass toll free. It was only when there were passengers with the mails that they became liable to toll. In Ireland the case was very different. They had before the postage committee, of which he was chairman, the very interesting evidence of Mr. Bianconi, who had come a foreigner to this country at fifteen years of age, and who had now 200 carriages for the conveyance of passengers and occasionally of the mails through that country; that foreigner had the good sense to discover, that it was for his interests to consult the health and comfort of the persons who travelled in his coaches. Now, he wished that the railway companies in this country would follow the example of Mr. Bianconi; for instance, on the Manchester and Liverpool railway the second class trains were composed of open carriages, exposed to the weather, and travelling at the rate of twenty-five miles in the hour. There were no cushions on the seats; there was nothing but hard boards, and, he might say, there was nothing provided for the convenience or the comfort of the passengers. This he considered was a question which regarded not merely the railways, but one also which affected the general convenience and prosperity of the country. The rules laid down by the railway companies were not suited to forward the convenience of the industrious and working classes. Every convenience was afforded to those who had portmanteaus and travelling bags, but those who brought with them baskets and boxes, which the poor generally used, found every inconvenience thrown in their way. The hon. Member was proceeding to state from the documents laid before his committee the charges made to the Post-office, when

The *Speaker* called the hon. Member to order, and observed, that he had no right to make use of statements which had not been already laid before the House.

Mr. *Labouchere* remarked, that a document had been furnished to him by the Postmaster, which he tendered to the hon. Member. The document was certainly one of importance, and he himself intended to make use of it.

Mr. *Wallace* continued by saying, that from the return of the Postmaster General it appeared, that the cost of the railway conveyance of mails was more than double that of their being sent by mail coaches. It was about two-pence a mile for conveyance in mail coaches, and nearly five-pence a mile for the conveyance of mails on the Manchester and Liverpool Railway. This country had expressed by petitions a very strong desire to have a cheap rate of postage, and yet, if they paid five-pence a mile for the conveyance of the mails, when they could have them for two-pence, he did not see that any more petitions need be laid on the table of the House for that purpose. There had been a great deal of evidence gone into, and the report showed, that the Government could place engines on the railways for the purpose of conveying their own mails. The Government, in his opinion, was entitled to do this by all the acts which had been passed. Evidence had been received from parties, directly or indirectly interested in preventing the Government from availing themselves of the power which they had. He was convinced that there was no good reason why the Government should not have engines constructed, and place them on the railways for the carriage of their mails. He believed there would be no more difficulty in putting their engines on the railways, than there would be in their travelling on the common roads. Let the speed be decided, and the engines of the Government or the company could follow each other without the slightest risk or danger. As to the difficulty of the matter, he believed it was all a mere bugbear. He should wish the Government to pay attention to the facts he stated. He believed the Government could convey troops and artillery along the railways as upon common roads. He believed the railway companies themselves never contemplated anything else when they originally applied to that House; and he believed that no objection would have been made by the railway companies if it had been proposed to them at first. He hoped an inquiry would be instituted by the commencement of the next Session as to the general working of the railway system, and the effects that might be produced by it upon this country. He had now brought before the House a general outline of his views, and he should merely say, that he exceedingly regretted that the Government had been induced to withdraw the sound principle, of mails being sent toll free on railways. In the present measure, he admitted there were a great many good things—there was especially, one excellent principle, which he very much admired—it was the principle, that no company should have the power, by any bye law, to impede the correspondence of the country in any manner similar to the attempt made upon the Manchester and Liverpool Railway, and again upon the Birmingham and Liverpool Railway, to put a stop to travelling on Sundays. It ought certainly to be permitted to travel upon railroads on Sunday as well as upon common roads, and when any private companies should have the power of preventing that, then he said, "Farewell to the boasted liberties of this country." Thinking that it would be more wise that the present bill should not pass into a law, and that time should be allowed for proposing a better, he, in accordance with the notice he had given, proposed, that the Committee should be postponed to that day six months.

Amendment not seconded.

The House resolved itself into a Committee.

Upon Clause one,

Mr. *Labouchere* could, he said, assure his hon. Friend, who had just sat down, that if he did not enter into all the details of this important subject, it was not through any disrespect for his hon. Friend, and still less from any insensibility as to the importance of the subject itself. He agreed with many of the opinions which had been expressed by his hon. Friend. He agreed with him, for instance, in thinking that the House and the Legislature had legislated blindly and rashly on the subject of railways; and he agreed with his hon. Friend in fearing that the consequences would be so very severely felt by the country, as to require hereafter the consideration of Parliament. He felt, upon the present occasion, unwilling to ask the House to enter into the discussion of a subject which must involve so many complicated details. He was rather persuaded that he ought to limit their attention to that which, it was true, was but a small part of the subject, but yet, which was not in itself by any means an unimportant question, namely, what was the present state of the railways, as affecting the Post Office communications of the country. That was a question which required the consideration of Parliament. He was surprised, then, when his hon. Friend, after the speech he had made, and in which he had stated distinctly that which no man could deny, namely, that at the present moment the country was entirely at the mercy of the railway companies, not only as to the due conveyance of its correspondence, but also as to the terms on which it was to be conducted, or in other words that it was in the power of the railway companies completely to impede the correspondence of the country, or for the conductors of the railways to affix such terms as they might think fit—when he had heard his hon. Friend state this, he was certainly surprised, that after such a statement, his hon. Friend should have concluded by recommending that they ought not to legislate on the subject during the present Session, but that it would be right for them to put off for six months any attempt at remedying such a state of things. Now, he thought, that whatever might be their opinions on other subjects, it was their duty, free from all party divisions, to attend to this very important matter; and, in his judgment, Government would desert its duty, and the House would desert its duty, if it attempted to separate without devising some remedy for the existing evils. He then was not at all surprised that his hon. Friend, when he proposed the postponement of the consideration of this question for six months could not find a seconder. It was not at all surprising, that no other Member could be found to second such a proposition. For the necessity of their putting an end to such a state of things he would first quote the resolution of the committee appointed to investigate the subject. That was a resolution which had been agreed to almost unanimously; it had been agreed to by all the Members of the committee, with the single exception of his hon. Friend, the Member for Leicester. This was the resolution, "That it appears to this committee, that the companies who are the proprietors of railways have it in their power practically to prevent the due transmission of the correspondence of the country by means of the Post-office as well as to impose upon the public whatever terms they may think fit for its conveyance." He would also quote a sentence from the valuable report presented to the House by the Commissioners on Irish railways. They observed, "that it was a very important consideration, that the powers given to the railway companies placed the service of the mails at their entire discretion," and they recommended "an alteration in the present state of the law." He could not add anything to such testimony to show the necessity of their interfering at present with this matter. He should now proceed to make a few observations as to what his hon. Friend had said with regard to the conduct of the Government in abandoning their bill, and not standing on the original arrangement which had been sanctioned by the committee. He could assure his hon. Friend and the House, that he had not abandoned it without the most mature consideration. The original arrangement had been abandoned, much less from any alteration of opinion upon his part with regard to the justice and the necessity of that arrangement, than because he was convinced, from communications which he had had with various individuals, that a majority of that House differed in opinion with him as to that arrangement, and that if he did not make some changes in it he had no chance of passing it in the present Session. It had been urged, and he confessed it had been urged upon himself with some force, by many Gentlemen, that the plan originally proposed was unlike the usual course of legislation in this country, where they never resorted to extraordinary and to strong powers until they had tried, fully and fairly tried, conciliatory measures. The proprietors of railway companies, it had been said to him, were aware of the situation of the Post-office; that they had no wish to drive a hard bargain with it; but upon equitable terms to treat with it, not only as to the mode in which the correspondence was to be regulated, but also as to the equivalent to be obtained for it. To be frank, he must, however, say, without meaning to cast the least imputation upon the gentlemen interested in those companies, that he must fairly own, that he did not entertain very sanguine expectations as to the satisfactory fulfilment of such promises. He believed, that self-interest would actuate those railway companies, as it influenced others, and that they would seek for the highest profits on this as on other matters which it would be in their power to obtain. Perhaps they would not do this at first; but he had no doubt they would attempt it gradually, and at last they would try to get every shilling that they could out of the Government and of the public. He did not pretend to state the arguments which many hon. Members had had with him, but the result was, that he agreed to try the experiment by bringing in the bill as it stood at present. Let them, then, he said, try the system, and see how it could work by leaving all disputed points to fair arbitration; and then they could afterwards see whether any stronger powers would be necessary. He believed this, that there were many Gentlemen who were opposed to the bill as it originally stood, who would, if the present experiment failed, be ready to support the Government in introducing stronger measures. For his own part, he said, he was not at all ashamed to bow to the opinion of a majority; and he must add, that he though it best suited to his duty to see the bil carried in its present shape; even though he preferred a better bill, which, however, he felt it his duty to abandon when he saw that it could not be carried. This was his frank avowal to his hon. Friend, and he hoped it would be accepted. He quite agreed with his hon.

Friend in one opinion which his hon. Friend had expressed, namely, that the rights of the Government and the public were not at all affected by the railways. He had consulted the law officers of the Crown on the subject, and by them he was informed, that the Government had an absolute power of running their own carriages on the railways; that they could convey troops; that they could run carriages not with passengers, but for any *bonâ fide* service of the Crown, and that they could do all this toll free upon the railways, just in the same manner that they could run them on the high roads. He imagined, then, that that was a point which must be admitted, that it was one which could not be disputed, and, therefore, there was no injustice in asking for powers to avail themselves of the railways as of other high roads of the country. He did not at all pretend to say, that there was not an important distinction between high roads and railways, and in the bill he proposed to introduce, that distinction should be preserved. The Crown used a common road, without contributing to its repairs, and without paying tolls; but, then, considering the tenures of railways, and the expense incurred in their formation, he thought it would be improper in the Crown to assert its right to the use of them in the same manner that it did to common roads; but then, with that restriction, the railways were no more than the highways of the country. Some reasonable terms ought to be agreed to for the use of them. But, then, he stood there on the part of the public, and he said they had the right of using them, and there was no injustice in vindicating that right. In the bill which he proposed to the House he entertained the hope and the expectation that the service of the Post-office would be performed regularly and well—he hoped, too, that there was a determination on the part of the railway companies, that the service of the Post-office would be properly conducted. He had little doubt upon these points; but he was equally sure of that to which the public had an equal right, that the service would be performed at a reasonable rate of charge. Looking at the principle of this bill, which was, that the payments should be referred to arbitration, and it was well known, that arbitrators always decided against the public; he did not believe, that those services would be performed at such a rate as Parliament and the country had a right to expect; and he would say at once, for there was no use in blinking the question, that if Parliament was prepared to lay down, as a principle, that the Post-office should not be the favoured party, in any manner, in the negotiations with railway companies—if they were to be treated in the same manner as private individuals were to be treated, then he should at once think that it was nothing more nor less than this—transferring to the railway companies the greater part of the revenues of the Post-office. He knew there were Gentlemen in that House who would say, that the Post-office ought not to be made so much a branch of revenue as a matter of public accommodation, and who would willingly see the revenue reduced, provided the public derived the benefit; but he believed, that no Gentleman, with the exception of railroad proprietors, would lay down as a principle, that the revenue was to be taken from the Post-office, and not left in the pockets of the public, but transferred, in a great part, to the proprietors of railroad companies, and added to their property. That he believed was a principle which the House, with its eyes open, would not act upon; and yet, unless the House took care, there was a great danger of that actually taking place. He did not make these observations out of any prejudice against those great undertakings; on the contrary, he felt that they conferred the highest honour on the country, and he wished them every possible success. He hoped he should be the last man in the House to interpose anything which he believed would act injuriously towards them; but, at the same time, he knew, that there were plenty of Gentlemen in that House who were willing and able to fight their battle, and he felt, that he would not be discharging his duty to the public and to the country, unless he attempted to make the best bargain he could. He knew that some Gentlemen had been a good deal struck with an assertion made in a petition which had been presented to the House by the Liverpool and Birmingham Railway Company, in which it was stated, that really they did no injustice to the public, that there was no ground for complaint, or for introducing a measure to make them carry the mails at particular rates, since they carried them now at one-fourth the expense which the Post-office was subject to while the mails were carried by the mail-coaches. Now, he must own, that he himself was startled a little when he saw this assertion in the petition, and he took the trouble to inquire how it was, and he held in his hand a return from the Post-office on this very subject. From this he found, that instead of the mails being carried, as stated in the petition, at one-fourth of the previous expense, the thing was reversed, and the Post-office was paying nearly four times as much as they were charged under the mail-coach system. He had a statement, showing the comparative expense of the conveyance of the mails by coaches, and of their conveyance by the railway upon the Liverpool and Manchester line, and upon the Grand Junction Line. The whole expense under the old system on the former line was 1,515*l.*; whilst for the railway services from the day on which the Post-office availed itself of this source under the contract that had been entered into, the whole expense came to 4,968*l.* There was thus a difference against the public and the Post-office of not less than 3,452*l.* He had also obtained a return with regard to the Grand Junction Railway, and the comparative amount of the expense was this:—Those mails, which were transmitted by coaches at the expense of 1,887*l.*, cost the country now, when the service was performed by the railway, the sum of 5,862*l.* It was right that these things should be fairly stated to the House. If the House thought it consistent with its duty to give up the whole revenue of the Post-office, and transfer it to the pockets of the railway companies, he could not help it: but it was his duty fairly to state how the matter stood. He was not aware that he need detain the House longer. He could only repeat, that he hoped they would not refuse to try the present experiment. He knew, that in arguing or dealing with this subject in the present state of railroad communication, and with so little experience on the subject, they must find it extremely difficult to legislate or to adopt the provisions which should be the best: he thought that the best course would be, to adopt the present measure as an experiment. Before any long time elapsed, they would have considerable experience as to the working of the new system. If, as he sincerely hoped, it worked in all respects better than he was sanguine enough to anticipate, then the Post-office and the railway companies would have no difficulty in coming to an amicable settlement, than which nothing could give him more pleasure; but if that should not be the case, then, undoubtedly, it would be the duty of Government in a future Session of Parliament, to bring forward some other measure on this subject. He would only add one word. Some Gentlemen might be of opinion, that it was premature to make this experiment, and that railways were not advanced enough to render this bill necessary. In answer to this, he could only say, that there would be very great danger as regarded the Post-office communication, unless some provision were immediately made. Before next November, out of the thirty mails that started from London, only nine would be left. In this state of things the House would see, that Government would not be doing its duty if it did not at once consider, under all the circumstances of the case, what step it would be most advisable to propose. He hoped, that the House would at once go into a consideration of the question.

Lord *Granville Somerset* perfectly concurred in the principle laid down by the right hon. Gentleman, that some measure ought to be passed to give protection to the Post-office with regard to communication, but he must say, that he certainly was astonished at the statement of the right hon. Gentleman as to the comparative rate of expense. He did not for a moment mean to insinuate, that the right hon. Gentleman had not faithfully compared the returns which had been put into his hands, but those returns were so entirely contrary to the stream of evidence that had been given with regard to the communication on the Grand Junction Railway before a Committee of that House, that, until he saw some analysis, and the returns and data on which this comparative statement was founded, he felt bound to say, that he for one must hesitate to give his confidence as to the comparison that had been made between the expenses of the railroad and the former expenses. But he was still more astonished at the doctrine laid down by the learned law officers of the Crown, that these railroads might be used by the Crown by the right of the prerogative, and that the Crown might use the railroads, without fee or reward, for the conveyance of troops, as on any other highway. He certainly felt great diffidence in venturing to put himself forward as an authority against the law officers of the Crown, but he must say, that he very much doubted, whether the right of the prerogative had ever been urged so high by the Tories as it was now attempted to be carried. With regard to the question more immediately before the House, he certainly thought, that it was not fair, that they should entirely overlook the outlay and the expense to which railroad companies had been put with regard to that improved mode of communication. If there was any degree of expense incurred beyond what they were remunerated for, the railroads ought not to be compelled to pay for the public accommodation, who could now send a letter in ten hours, when it formerly took from twenty to twenty-four. This, he thought, was a great principle to bear in mind. He would not enlarge further on the particular points that had been alluded to; but having been a Member of the Committee, although unfortunately unable to attend when the resolution was carried, he felt bound to protest against the principle of compelling persons to make a railroad out of their own funds for the accommodation of the public.

The *Attorney General* felt called upon to say a few words after what had fallen from the noble Lord. He did this with great deference to the noble Lord, for he felt that he could not discuss a point of law with the noble Lord without some degree of awe as it was under the noble Lord that he had formerly practised in the early part of his career. He remembered that the noble Lord had laid down the law authoritatively and very satisfactorily; and for one in the station of chairman at quarter sessions, he had the opportunity of observing, that no man administered the law more to the satisfaction and the benefit of the public. At the same time, when it came to a question of prerogative —always speaking with very great deference — he must be allowed to look at the law authorities on the subject. He had to consider what the various luminaries of the law of England had laid down; and, with deference to the noble Lord, he must express an opinion totally different from that which the noble Lord had propounded. He had to contend that railroads were not distinguished for this purpose from other roads made with stone throughout the country. This doctrine had been laid down by his hon. Friend, the Member for Greenock (Mr. Wallace), and whether these roads were made of iron or stone made no difference. They were highways, and all persons had a right to travel upon them, according to the terms laid down by the Legislature, as on turnpike roads, where the public had a right to travel, upon paying certain tolls. Her Majesty could not be called upon to pay tolls, nor any one in the direct employment of her Majesty. So also troops passing along a turnpike road did not pay, neither did the baggage waggons, when employed in the service of the public. It seemed to him, that the tolls to be paid upon railroads rested exactly upon the same footing. The public had a right to travel upon these railroads upon paying certain tolls. The question was, were these tolls to be paid by the Crown? It was not said, that her Majesty could not travel personally upon any of these railroads without being subject to the payment of tolls to which her subjects were liable, and he saw no distinction between the personal accommodation of the Sovereign, and that of any person in her Majesty's immediate employment, and engaged in the public service. He had no doubt that if the prerogative of the Crown were put in force, the Post Office communication might be carried on without the payment of tolls, that troops might be sent on the railroads without the payment of tolls, and that stores might be sent from one part of the empire to another, along railroads, without paying any tolls. He did not see any injustice or injury that this would inflict; but he certainly should not think it fair to enforce the prerogative. He thought that a reasonable compensation ought to be made to the railroad proprietors for the accommodation which the public enjoyed, and for that reason, he thought it most laudable that this bill should be introduced, for the purpose of doing justice to the public and to the proprietors of railroads. If this bill were obstructed, very many difficulties would arise. He hoped that when this bill was passed into a law, it would make the railroads, which were so liberally dealt with, reciprocate that liberality towards the public; but he wished them also to bear in mind, that if they exercised this act, with anything like a view of oppressing the public, and if they insisted upon having four times as much as was paid by the public, as a remuneration for the conveyance of mails through the medium of coaches, there was a remedy in the Legislature, and there was a remedy in the prerogative of the Crown.

Sir *J. Graham* said, he was most anxious to support to the utmost of his power the harmonious settlement of this question. He was convinced that legislation was necessary, and therefore he agreed with his right hon. Friend (Mr. Labouchere), that if the terms of this harmonious settlement should ultimately be found insufficient for the protection of the public, further powers would be necessary. On a future day, he should be most willing to consider this subject, when the necessity presented itself; but they had now to deal with the present. He was very much opposed to the strong provisions contained in this bill in the first instance, but to these it was not necessary now to refer, as they had very nearly arrived at an harmonious settlement of the terms. He must be allowed, however, to add, that he had heard with regret the topics that had been introduced by his right hon. Friend, and more strongly insisted upon by the high prerogative lawyer near his right hon. Friend. He was glad that his noble Friend (Lord G. Somerset) had come to the rescue, as he (Sir James Graham) was not prepared to argue such a point with a lawyer of such eminence, as her Majesty's attorney-general. The point, however, was worthy of some discussion, inasmuch as he thought that the differences with respect to the terms of the agreement depended on the distinct understanding of this point, and upon the right of the prerogative. The Attorney-general had laid it down broadly, that there was no distinction between railroads and the common highways, between roads of stone and roads of iron; and he added, that the Crown had the same rights upon railways as upon turnpike roads. In the first place, he must ask the hon. and learned Gentleman, whether he saw any difference between a highway made of iron or stone, and a highway of water? Did her Majesty's troops, which were constantly passing to Liverpool by the canal, and particularly the guards, pay nothing? What said the Master-general of the Ordnance, or the Secretary at War? Unless he (Sir J. Graham) had been misinformed, the troops so conveyed by the canal paid for their passage. Then, again, with respect to bridges, Fulham-bridge, for instance, did they not pay for the use of that? But was there an unqualified right on the part of the country to use railroads, even upon paying the tolls? If he were not mistaken, in every act that was passed, it was provided, that no foot passenger should be allowed to come on the railroad. They could only use railroads in carriages of a particular construction, and subject to the bye-laws and restrictions which the company should think it right to make. But there were other and surer tests. First of all, highways were repaired at the public expense. By a bill then in progress through that House, it was rendered compulsory on the landowners to repair the roads. Thus the roads were made by the public, and were repaired by the public. But there was a yet stronger test. The hon. and leneard Attorney-general had referred to quarter-sessions law; and had stated, that his noble Friend (Lord G. Somerset), had been his master. Now, what little he knew on this subject, had been acquired from the same source; but he knew this, that one of the surest tests of the right of property, was the right of rating. Now, he had never heard of the tolls on the King's highway having been rated. But were not the profits of the tolls on the railroads rated both to the poor-rate and to the county-rate? This was as broad a distinction as he could well conceive between the public property in the one case, and private property, as contradistinguished from it, on the other. He would not press the matter further, although it appeared to him to be well worthy of consideration; and he would only say, that he was prepared to maintain, that railroads were private property, with all deference to the opinion of the learned Attorney-general. He was sorry, that this preliminary point had been raised; but having been raised, it was necessary that it should be discussed; for the subsequent question of remuneration would very much depend upon it. He was satisfied, that it was an erroneous notion, that the public had a right to use railroads in the unlimited sense, stated by the hon. and learned Gentleman. He must contend, that the real obstacle to the equitable settlement of this question of toll, was the ample remuneration to which the railroad proprietors were entitled. He was prepared to admit, that the public ought to have secured to them a right to use the railroads at all times, subject to notice; and that the Post-office should be the sole judge of the time of the dispatch, and of the frequency, and that this service, under a heavy penalty, should be rendered to the exclusive satisfaction of the Post-master-general. Then there remained the sole question of remuneration. He said, that the remuneration should be ample, and should be founded on the basis of a reference to the original cost of construction and the exclusive rights of ownership, for which he felt bound to contend. This was a matter for arbitration in the first instance. It might subsequently become a matter of direct legislation. But he was glad, that Government was prepared, as he thought most wisely, to attempt the experiment in the first instance of private arbitration. On this principle the bill was founded. On all other points the parties interested and the Government had come to an agreement, saving only one point, namely, the arbitration clause, Clause 15, and when they came to that clause, he should be prepared to state the view he took of this part of the question. He must repeat, that he was sorry that the preliminary discussion had been raised, and as it had been put forward by a high authority, he had thought it necessary to call the attention of the House to a few arguments of an opposite tendency.

The *Attorney General* begged to be allowed to say one word in explanation. He was just as anxious as the right hon. Baronet, that a fair and ample compensation should be paid to the railroad proprietors for the use which the country derived from their roads. He did not say, that the public had an unlimited and unrestrained right to make use of railroads. What he did say, was this: that what right the public had upon payment of tolls to make use of railroads, that right the Crown had to make use of them without paying.

Viscount *Sandon* said, that nothing could be more disagreeable to him than to attempt a legal discussion; but when he heard railroads put on the same footing as the highway, he confessed, that there seemed to him to be a very broad and evident distinction. It was very true, that her Majesty and her Majesty's troops and mails were permitted to pass over turnpike roads without paying toll; but that was in consequence of specific enactments in every turnpike act. But they did not find any such enacting clause in any railway act. They invariably found those clauses in turnpike acts, but never in any railway act. Had he not then a right to say, that they did not stand on the same footing? He must, therefore, say, that whatever mysterious virtue there might be in the prerogative of the Crown, which was occasionally drawn forth from time to time to frighten the subjects of the Crown from their propriety and their property, he hoped at the present day men's minds were not to be swayed by it. He could not understand the principle which entitled her Majesty to make use of railroads without any expense, and yet that her Majesty should not be entitled to make use of canals in the same manner. It was a common practice to carry troops to Liverpool by means of canals, but he had never heard of their being carried without expense. It would, therefore, form a new element in canal property also, this right of prerogative now for the first time discussed. He would not interpose any further observations between the consideration of the clauses of the bill; but with respect to the first clause, he had to propose a few additional words. He thought, the clause as it stood would act injuriously upon railroads now carrying goods or passengers for hire, and he would, therefore, suggest, that the following words be appended to the clause:—" provided that nothing herein contained shall extend to railway companies not carrying goods or passengers for hire."

Mr. *Labouchere* said, the principle of this bill was, that the whole control of railways should be left to the proprietors. They did not propose to interfere with that control, and he thought it would be more expedient to adhere to that principle.

Mr. *Baines* said, that he could not concur in the claim set up on behalf of the Crown to enjoy the use of the railroads for the passage of the mails free of charge, and he was surprised, that this claim, which had been abandoned in the amended bill now before the House, was re-asserted in argument. If a claim of that nature was to have been asserted, it ought to have been made before the railway bills were passed through Parliament, and then the persons investing capital in those constructions would have known what they had to expect, and they might either have undertaken, or not undertaken, the work subject to those conditions; but now it was evidently too late to set up such a claim, and its enforcement would work great injustice. In discussing this subject, the House ought to recollect, that the persons who had invested their capital in railways were great public benefactors; and though their object might be individual advantage, combined with commercial facilities, it should be considered, that they had, at their own individual risk, rendered an incalculable benefit to the country. In proof of this he might mention, that the Manchester and Liverpool Railway now yielded an advantage every year of, at least, 400,000*l.* to the inhabitants of those two places, and that if the same number of passengers and the same amount of merchandise had to be conveyed between Liverpool and Manchester, and between Manchester and Liverpool, by the conveyances which existed immediately before the construction of the railway, that were now conveyed by it, the cost would exceed, by the amount he had mentioned every year the sum that was now paid for that accommodation, to say nothing of the saving of time in the transit. This was only one instance of the benefit of railways, but similar benefits were extending themselves all over the country, from the enterprise and public spirit of the railway proprietors, without any demand whatever upon the public purse; and he thought, that persons to whom the kingdom is so much indebted, ought not to be treated as adventurers, whose property might be invaded with impunity. This bill, as originally introduced into Parliament, had not only set up a claim of free postage for the mails, but it sought to give to the Post Office, a control over the railroads, and to make her Majesty's Postmaster-general a competitor with the railway proprietors in the conveyance of passengers. He was happy to say, that those obnoxious clauses had been withdrawn, and he might appeal to the Ministers, whether in the negotiations that had taken place on that subject, the railway proprietors had not shown a fair and a liberal spirit, and whether they had attempted to interpose any difficulties in the way of the public accommodation. They knew and felt the propriety of every facility being afforded for the conveyance of the mails, in which every individual in the country was interested, and they were anxious that this new and highly-improved public conveyance should be made conducive, on reasonable terms, to the public good. Without wishing to impugn the statement made by his right hon. Friend, the Vice President of the Board of Trade, as to the greatly increased cost of conveying the mails by the railways, over the expense of sending them by the high roads, he must be allowed to doubt its accuracy till it had undergone revision, as he could not imagine how a mode of conveyance, which cost little more than half of the usual amount for the conveyance of passengers, should cost four times the former amount for the conveyance of the mails. To the principle of the bill now before the house, in its present form, he was disposed to give his best support, though he might urge objections to some of its details when in its progress through the Committee.

The *Chancellor of the Exchequer* submitted to the House, now that the preliminary discussion had, in point of fact, been closed, whether they had not better distinctly keep to the point immediately before them. He believed, that no serious objection would be raised till they got to the 15th clause.

Mr. *Warburton* said, the point in dispute was, whether the company should receive remuneration for the conveyance of letters proportioned to the cost of constructing the railway. He thought the most equitable method of settling the matter, would be to assume as the original cost of construction such a sum per mile as might be presumed to be a fair average amount of expenditure. He believed, that from the natural difficulties presented by each route, few railways cost less than 25,000*l.* per mile, and there were instances in which, not from the difficulties of the country, but from the sumptuousness of the construction, the expense had reached 40,000*l.* per mile. It appeared to him unreasonable, that the proprietors should receive compensation for the extravagance of their plan of construction, and he thought 25,000*l.* a fair estimate of the amount which should be taken as the ground of compensation. In that way the principal questions that could arise before arbitrators might be got rid of, greatly to the advantage of all parties, as the cost of arbitrations, like that of law suits, was frequently so great as to exceed the sum the possession of which was disputed.

Sir *J. Graham* was glad to find that

his hon. Friend the Member for Bridport agreed with him on this question, as he had distinctly waved the point which the Government were inclined to oppose—the admission of the original cost of constructing the railway as an element in the calculation of the compensation to be awarded by the public to the proprietors. He intended to make a proposition relative to this matter, for though he had no personal interest in it, his attention had been arrested by the vast importance of the subject. He was resolved, as far as his humble efforts could go, to secure to the public a constant, prompt, and invariable communication by railroads whereever they existed, but he could not overlook the just claims of the proprietors. Let the Committee consider the advantages that had been secured to the public by the clauses of the bill already passed. There had been secured, in the first place, at all times in the day, and as frequently as the Post-office should require, a despatch of letters by railroad. In the next place, it had been provided, that those letters should be conveyed at the maximum speed of the first class train of passengers, and that no allowance should be made for the time of detentions, whatever it might be, arising from the orders of the Postmaster General, to leave bags along the line of communication. It was next provided, that no bargains should be binding as against the public for a longer period than six months, in cases where notice had been given, or even for as many days where notice had not been given, subject only to the question of compensation where no notice should be given. So unilateral was the enactment in favour of the public, that though the bargain was open at the end of six months with notice, and at the end of twenty-four hours without notice, railroad companies were bound for three years. Authority was given to impose summary penalties in default of fulfilment to the amount of 20*l.*, with recovery by action against the company under a penal bond to the amount of 500*l.* These were the advantages secured to the public, and the only question was, how was the public to remunerate those private companies for the benefits they gained? Here let him call the attention of the Committee to the enormous outlay these companies had incurred. He believed, that at a moderate estimate, the communication by railroad between the metropolis, Birmingham, Liverpool, and the adjacent manufacturing districts, executed, without any co-operation on the part of the public, at the expense of private individuals, would cost a sum approaching to 10,000,000*l.* The Birmingham and London Railway had cost already somewhere about 4,300,000*l.* At various times in the infancy of these great undertakings, assistance from the public purse had been humbly and earnestly asked by their projectors at the bar of that House. The answer to such applications always was, " The public have nothing whatever to do with the matter; with you is the profit, with you must rest the risk of loss." He did not think it possible to over estimate the advantages accruing to the country from this enormous expenditure of individuals. There were, first, the increased circulation of money and the profitable investment of capital, which alone might be regarded as benefits of the most important kind to the present generation. The railways would not only make a great addition to the comforts of the people and cause a great increase of the national wealth, but they would augment the national power and security, and their construction besides redounded to the national glory. Such were the advantages conferred by a few individuals on the country. Something had been said about the Post-office being a favoured department of the public service. He admitted it had been so much favoured, that it had many of the faults of a spoiled child; but if that were so highly favoured, surely the proprietors of railroads, in their character of public benefactors, might with a good grace come before the public and ask for some favour also. The correspondence of the country was not only of vast but of growing magnitude, and there were loud demands of a reduction in the present high rates of postage. The answer to such petitions used to be, that it was impossible to increase the bulk of the articles to be conveyed, as a reduction would certainly do, without at the same time diminishing the speed. But this great invention would supersede such objections, inasmuch as the railway carriages would be in fact moving post-offices, proceeding at the rate of twenty-five or thirty miles an hour. Bulk, therefore, had ceased to be an obstacle, speed was now compatible with the greatest bulk. The railroad proprietors asked for no favour, though their claims might be as good as others; they asked only for simple justice; and he agreed with his hon. Friend the Member for Bridport, that they would not obtain justice if the original cost of the railroad were excluded from the calculation of the compensation to be awarded them. It was said, that they asked for the interest of their capital, but that was a mistake. The hon. Member for Bridport talked of their extravagant outlay. No doubt there had been in some instances an affectation of superfluous ornament beyond the solidity necessary for the purposes of the railroad; but for this no remuneration was asked. Would it be said on the other hand, that the public should obtain for the same money the same speed and facility of communication—in North Wales, for instance, where tunnels had been made through mountains, vallies arched over, rivers crossed, and deep excavations made at immense expense—as on the Bedford level, where nature had interposed few obstacles? So confident were the railroad proprietors of the merits of their case, that under ordinary circumstances they would be content to leave it open, certain that no accountant of sound judgment, in estimating the proper amount of remuneration, would admit the consideration of this element. Mr. Stephenson, the inventor of the locomotive engine, was, in his opinion, a man of the greatest ingenuity and judgment; he had conferred the most signal benefits on his country, and his name would go down to posterity with honours. He therefore spoke of him with respect. But it so happened that Mr. Stephenson, in conjunction, as he was informed, with his son—that these two gentlemen came to a decision, without an umpire, that the original cost of construction ought not to be included as an element in calculating the compensation to be awarded to them for the conveyance of the Post-office mails. Their report said, that under the arrangement proposed by them, the Post-office will not contribute to the first cost, nor towards the repairs of the railway. After this award the proprietors of the Grand Junction Railway took steps, as might have been expected, to lay before Government their objections to the award, and to give notice, that at the proper time they should relinquish the mail contract. Other railway companies also took up the subject, with much earnestness and activity. It was indeed a subject of the most vital importance to all railway companies; and therefore it was, that he had brought it before the House. As to the objection of the extravagance, as it was called, of the payments demanded from Government by the railway companies, he (Sir J. Graham) did not think, that considering the short experience they had of the system, there were any grounds for making the assertion; but with reference to it he would mention, that it appeared from the evidence of Mr. Lewis, who was then an officer of the Government, but had since been removed from his situation, 2d. a-mile was enough to pay for the conveyance of a guard and letters to the weight of about one hundred cwt. Now, he was aware, that there were some doubts about the accuracy of the returns of the original cost and subsequent expense of the Grand Junction Company; but admitting, that a considerable addition had been erroneously made to the real expenditure, could it surprise any one, that complaints reached the House of Commons, and that railway proprietors were extremely anxious, that the proposition he was about to make should be adopted, when it appeared from the evidence of Mr. Lewis, that that railway was actually carrying the mails at a loss? Could it be believed of this country, that although these companies have conferred the greatest possible benefits upon the public, yet she imposed upon them in return additional taxation by obliging them to serve the public at less than a remunerating price? Therefore, although he thought the bill was on the whole rightly framed, and that the Government had acted in a most liberal and praiseworthy manner, in withdrawing the more stringent clauses which at first appeared in the bill, and in determining to try first the milder method, yet on this clause he was most decidedly of opinion, that the House was called upon to interfere, because he was convinced, that unless the House decided this question, the measure practically neither would nor could work. This was the question mooted—shall the original cost of construction be or be not included as an element of computing the remuneration? Let it be observed, every thing of the bill as it stood, passed into law, would depend on the umpire. As the bill then was, both parties were to agree on an umpire. Now neither party, it was plain, would give consent to any man as umpire who would not support their own views. Therefore, he thought the clause could not possibly be allowed to stand; and if it did, he thought it impossible, that the measure could operate satisfactorily unless the House decided. He hoped, therefore, to have the acquiescence of the House in the words which he would now move be inserted in the bill, to the effect, that the cost of construction be included. The principle of reference to arbitrators would not, he thought, be just in its operation, in consequence of the great varieties in the cost of construction of different railways, while at the same time he did not expect from it any advantage to the public. He would only add, that he should be very much disappointed if it were not found, that the original cost of construction of railways, excluding from cost of construction all expenses for every thing not strictly necessary for the conveyance of passengers and goods, was not much less than was said. He did not mean in what he said to exclude outlay for the purchase of land; for how could you establish a railway communication at all without purchasing land? He moved, that at the end of clause 15 these words be added, "such arbitrators shall take into consideration the original cost of construction of the railway, and of the maintenance thereof."

Mr. *Labouchere* entirely agreed with his right hon Friend who had just sat down, that nothing could be worse policy for the public, and nothing more unbecoming the Government, than to ask the railway companies to convey the mails on any other terms than such as would secure to those companies a fair and full remuneration; and he might add, that he for one should be very sorry to propose to the House any measure which he thought would not secure to them an ample and full remuneration for their services to the public. But unless the House were prepared to maintain what had ever been the policy of this country—namely, to make the Post-office service a favoured service—if they consented to do this, and put the Post-office upon a level with private persons, they would be sinking the revenue of the Post-office, not for the purpose of taking a burden off the public, but for the purpose of putting the difference into the pockets of the railway proprietors. And it was because he believed that course to be as unjust as it would be ruinous to the finances of the country, that he was prepared to resist any proposition for that object. The question now before the House, had been very fully and very ably stated by his right hon. Friend opposite. That question was, whether the House would insist, that the arbitrators shall take into their consideration, the cost of the original construction of railways, or whether they would leave to the arbitrators to decide according to their best judgment on the ordinary outgoings. Now, his right hon. Friend had rightly stated, that an experiment with reference to this matter had already taken place. He (Mr. Labouchere) was very glad to say that the proprietors of the Birmingham Railway had agreed to take the machinery proposed in this bill, and put it into practice before the bill should pass, by way of experiment. Accordingly arbitrators were appointed, that on the part of Government being Lieutenant Harness, of the Royal Engineers; that on the part of the Birmingham Grand Junction being Mr. Stephenson the younger. They had for umpire an hon. Member of that House, Mr. Loch. A more fair tribunal could not be constituted. What took place? They made a report, in which they did not confine themselves to dry figures merely, but very properly gave their reasons for the opinions and observations which they put forward, and they remarked that the Post-office and the public have a right to expect from these great companies, that they should bear in mind and act upon the recollection, that if they confer advantages upon the public, yet they have also had great advantages bestowed on them by the public. They said, that they would not calculate the compensation to be awarded upon the principle of including the cost of original construction, or the cost of passage of bills through that House, or of the mistakes of the engineers, and other expenses, especially those relative to the passing of bills. No, they would calculate on other principles, and here he agreed with them; at the same time he would not have the railway companies lose one shilling for what they did for the public. He would have them fully remunerated for the services done. He went thus far, but no further. The first principle of adjudication was not to go into the expenses of construction; and, although his right hon, Friend had anticipated something of the sort, he could not believe that the railway companies would offer a dogged opposition to the enactments of the law, and that they would appoint no arbitrators or umpire but such as they knew to be pledged to their own views; but if they did, it would furnish the best argument to Government to come down next Session, and ask for a bill to put a stop to such an abuse. The argument, that it was a vague and unrestricted method to leave the decision with arbitrators did not apply to the bill only, but to the proposed amendment also, for there was just as much vagueness about the question of the cost of construction—a question which depended very materially on the degree of skill with which the railway was originally projected, and it was not fair, that the public should be made to pay for the mistakes that might have to be corrected in the first design. However, he believed the whole question of railways would be forced on the consideration of the House at no very distant period. They had bound the country in chains of iron; we were in a state such as was submitted to by no other country. America had taken measures to secure the interests of the public on the railways. France had taken similar meaures—in a less degree it was true—still had taken measures, that this sort of monopoly should not be established against the public. Now, he warned the House, that if the clause of the right hon. Baronet were carried, he would not be answerable that the whole of the Post-office revenue would not be transferred to the railway companies. He had asked Lieutenant Harness, who was well qualified to judge, what in his opinion would be the result of carrying the proposition of the right hon. Baronet, and he answered, that the expense to the Post-office would be more than double the present. The Grand Junction had begun to carry for the Post-office at a very reasonable rate, but lately they had insisted on terms infinitely higher. Now, he hoped the House would not believe, that he wished to do anything unjust to the railway companies, or that he was insensible of the honour they had conferred on the country; on the contrary, he was willing to defend them—to defend them from the difficulties which, much against his will, they experienced in getting bills through that House; but he would not consent to make over to them the revenue of the Post-office; if that was to be abandoned, let it be given up in remission of taxation. The payments made to the Post-office must be kept up; but if this amendment were carried, those payments would go, not to the account of the public revenue, but to enrich the railway companies. Let the House consider, that the public might at some future period adopt more generally than at present the cry for a cheap postage and rapid communication, while the law would prevent the Post-office from concluding such terms with these companies as would serve to lighten the pressure of the taxation for postage, at the same time that it secured speed. He must repeat, that if the Post-office were obliged to pay these enormous sums to railway companies, the most disastrous results might be apprehended. He did not believe, that the public attention had been sufficiently called to the subject, nor did he think that the House was sufficiently aware of the state of the case. On the whole, however, as this measure was avowedly an experimental one, he thought the best course would be, to leave the whole question open to the arbitrators; at the same time he should have no great objection to the principle of taking into consideration the original cost of construction, because he believed that principle to be a fair one.

Lord *Sandon* complained, that the right hon. Gentleman should have endeavoured in the speech he had just delivered to enlist in his favour all the sympathies of the House, by declaring that the object of the bill was to confer a benefit on the public by establishing a cheap conveyance of letters, and thereby effecting a reduction in the amount of postage. That was not the question which the House had to consider. The question was, whether the public interest conferred a right upon the Post-office to take possession of rail-roads and make use of them without the slightest remuneration whatsoever. That was the plain and simple question which the House was called upon to decide. That the railway companies should be subject to control he readily admitted; but there was a wide difference between justifiable control and absolute sway, between fair remuneration and robbery; for such it would be, to use the property of those companies without paying for it. He felt it to have been admitted, that there was a wide distinction between railroads and common roads, not however of such a nature as to prevent the principle of prerogative from being applied to the former as well as the latter; but he could not consider it inconsistent with that principle to grant to the proprietors of railroads a fair remuneration—that was to say, a remuneration founded upon the expenses of executing and carrying on the work. If they had a right to do with railroads as they pleased, they had an equal right over canals. Yet it had never been contended that in making use of canals for the public service the payment, therefore, should be regulated solely by the wear and tear of the canal, and not by the amount of expenditure in constructing it. Even remunerating for the wear and tear of railroads generally upon the same scale would be unjust, seeing that one might have cost 4,000,000*l.* when another, of the same extent, might have cost but half that amount. The authority of Mr. Stephenson was, no doubt, a high authority, but not entitled to more weight than that of any other engineer.

Mr. *Hawes* thought, that the question before the House was one of a very simple character, and should be considered quite apart from those other considerations which the right hon. Gentleman the President of the Board of Trade had sought to throw around it. It was a question of dispute between the Post-office and railroad proprietors, in order to settle which an arbitration clause was proposed. Now, if the object were to allow to the arbitrators a full opportunity of considering every matter in dispute between those parties, there was no doubt that such a course would afford the greatest facility for doing so; but if there was to be anything in the shape of exclusion, it would neither be fair nor likely to lead to an harmonious or satisfactory settlement. It was but right they should come to a distinct understanding on that point. The right hon. Gentleman was desirous of excluding from the arbitration one branch of the question. If that were just, why not have mentioned it in his clause? By this bill they were trying to collect together such a body of facts and authentic information as would enable that House or the Government to introduce at a future period an act which would set at rest all contested points, and compel justice to be done. If they worked harmoniously with the railroad companies, and made such concession on the part of the public as was but fair, in consideration of the advantages they were to gain by the great increase of speed, there would not, he was certain, be any difficulty in coming to a speedy arrangement; but if it were attempted to impose conditions, or exclude one single element which either party might think ought to be made part of the arbitration, not only would there arise great practical difficulty, but very great dissatisfaction.

The *Chancellor of the Exchequer* had very little to add to the able and concise statement of the right hon. Gentleman the Vice-President of the Board of Trade, and he rose only for the purpose of correcting any misconceptions the House might have derived from the observations which had fallen from the hon. Gentleman the Member for Lambeth, and the noble Viscount the Member for Liverpool. The noble Lord had used terms with respect to this subject which were improper as to the conclusion which he appeared to have drawn. What the noble Viscount had said was, that the proposition would have the effect of cheating the railway companies, and that the Government proposed to give them no renumeration. He denied, however, that such was the case. The practical question was simply this. The Government found a railway between Manchester and Liverpool, for instance, created as a private speculation, and they called on the private company to perform a public service, and they said, that no additional charge should be made with respect to the speculation, but that the company should receive only a fair and adequate remuneration for the services performed, for the speculation was entered into, not for the benefit of the Post-office, but merely for the advantage of private individuals, and, therefore, as they did not affect them in any way, the additional charge to which they should be subject by reason of the Post-office services was the *quantum* of remuneration to which the company would be entitled. He maintained that that was a fair principle of dealing with these parties, and that it was totally distinct from the principle of requiring services from them and giving them no adequate reward. So much for the remarks of the noble Lord. He came now to the observations of his hon. Friend (Mr. Hawes) near him, who said, "when you propose to leave this matter to arbitration, why will you endeavour to exclude any one element from the consideration of the arbitrators?" That was not the proposition of the right hon. Baronet (Sir James Graham). The right hon. Baronet's proposition was, not whether any one element should be excluded or not, but whether one particular element should not be introduced. The right hon. Baronet's amendment was not whether the arbitrators should take into consideration the original cost of railways and the maintenance thereof in such cases as the arbitrators might deem fit, but whether they (the arbitrators) should not, by Act of Parliament, be compelled to include that element of calculation in every case. He maintained, that a proposition more untenable upon every principle of justice and fairness could not by possibility be suggested. They had upon the table of the House the opinion of three competent parties, by whom it was declared that the element of calculation proposed by the right hon. Baronet, so far from being applicable to every case, was directly the reverse. If this amendment were adopted, what would follow? Why, every blunder, every mistake, every extortion (and it was well known that many extortions had been practised) in the construction of these railroads would be taken into calculation, and a heavy portion of the burden of them saddled upon the Post-office communications of the country. Upwards of three years ago, when the Duke of Richmond was at the head of the Post-office department, the attention of the Government and of Parliament was directed to this question; and repeatedly, upon the occasion of railway bills passing, had he (the Chancellor of the Exchequer) stated to the House that a time would come when it would be necessary to deal with them by some general legislative enactment to protect not only the revenue of the country, but the rights of the public. It was well known, that when those bills were in progress, the gentlemen who then were suitors, but who now assumed so much the tone and character of masters, would have submitted to any terms. [*No, no!*] The hon. Gentleman who said "No," certainly knew much more about the feelings of railway proprietors than he (the Chancellor of the Exchequer) did; but it stood upon evidence, that at the time the bills were in progress, they (the proprietors) were perfectly willing to submit to terms which, now that the bills were obtained, and the railways in full activity, they were so obstinate in resisting. Let these railroad proprietors, however, recollect at least this one thing, that if they should succeed by their activity, energy, and zeal, in defeating what he (the Chancellor of the Exchequer) considered a fair and just demand on the part of the public, Parliament would yet have it in its power to deal with this question of Post-office communication, even if the present experiment should fail. When these gentlemen came to have their bills renewed—when they came to Parliament for fresh powers—when they appeared again in the capacity of suitors, and not in the character which they now assumed, of dictators, Parliament, after the experience it had obtained, would not fail to secure by the strongest and most stringent measures a full protection to the public service of the country. The Members of the Government, in the discharge of their duty upon this subject, had been made the subjects of the most malicious and malignant misrepresentation; but they would not be deterred, either by harsh language, or false accusations, from doing what they conceived to be their duty to the public. The bill now before the House was considered only as an experiment—an experiment which, with fair play, it was hoped would succeed; but if that should not be the case, if from any cause the experiment should fail, his hon. Friend the Vice-president of the Board of Trade (Mr. Labouchere) reserved to himself the full right of asking for further powers, for more stringent authority to enable him to deal with these companies. It was the duty of the Government, who were in a great degree responsible for the creation of these corporations, to guard the interests of the public against the monopoly they would establish, and to take care that they did not possess and exercise a power which might endanger all the communications of the country.

Sir *Robert Peel* said, that the House was now called upon to repair an enormous error into which it had fallen, when the railroad bills were under discussion. They ought to have foreseen, when these bills were before them, that they were, in fact, establishing a monopoly, a monopoly in respect to which there could be no future condition. They ought to have foreseen, that if the railroads were successful, other modes of internal communication would almost necessarily fall into disuse; and they ought therefore to have stipulated, as it would have been perfectly just and easy for them to have done, that certain public services should be performed at a very reasonable rate. Parliament, however, did not take those precautions, and the railroads were now established. He apprehended that the public now stood to these companies in much the same situation as the railway companies, at their first formation, occupied with respect to the owners of private property. The Legislature had then said to those owners, "you must, for a great public benefit, forego your own will and discretion, and dispose of your lands to these companies;" and just the same right had Parliament now to say to the railway proprietors, "for a great public benefit you must to some extent give up your rights of private property." But how was the rate of compensation to be fixed? In the same way as it had been fixed between the railway companies and the proprietors of the soil. The principle observed in those cases was the principle of arbitration. In the first place, the parties had an opportunity of making a private bargain. If they could not agree, the question was referred to a jury, who awarded damages according to the value of the property. Why not take the same course now, with the single exception of referring disputed points not to a jury, but to two arbitrators with an umpire? In the former case, when the value of property was to be ascertained and assessed, the jury were not bound to take into consideration what was the original cost of an estate, nor what the expense of keeping it in repair—they were left, upon an equitable view of the whole case, to determine what in their opinion was a fair and just compensation. Why should not the same course be taken now? He could not agree to the words of his right hon. Friend (Sir J. Graham), neither could he agree to the absolute exclusion of them. He thought that each case must depend upon the particular circumstances by which it was surrounded, and that it should be left to the discretion of the arbitrators as to the rule they would adopt. If the calculation were in every case to proceed upon the principle laid down in his right hon. Friend's amendment, he (Sir Robert Peel) thought that the arbitrator would be obliged to consider something more than the original cost; he would be bound also to take into account the profit of the company. Suppose, without reference to the Post-office communication, that a company were making large profits, surely, in any such calculation as the arbitrators would be bound to make, the amount of profit ought to be placed against the cost of construction; and it would be just for the arbitrator to say, "I see your profits are great; therefore I shall determine what, in your case, I deem a handsome and liberal reward for carrying on the communication of the Post-office." But he doubted the policy of tying down the arbitrator to any particular rule to be observed in all cases. He had supposed the case of a prosperous company. Take one of an opposite description. Suppose the case of a company whose outlay had been enormous, and whose receipts yielded no profitable return: would it be just, in such a case, for the arbitrator to say, "I find that yours is a very losing concern; therefore, I will compensate you at very high rate: I will not only pay you for the original outlay for construction, but I will also make you some allowance for the reduced amount of your receipts." He (Sir Robert Peel) did not think that that would be just to the public. In his opinion the arbitrators ought to proceed, not upon any fixed and arbitrary principle to be observed in all cases, but upon an equitable view of the merits of each particular case. He did not object to the bill as it originally stood. He would not have the interests of the railroads prejudiced by a preliminary discussion in Parliament, but would leave all to the discretion of the two arbitrators, subject to the final decision of an umpire. That, upon the whole, he thought would be the most proper course. If his hon. Friend had an assurance that the words as they originally stood were not prejudiced by anything which had taken place, but that they were to be construed according to their proper construction—namely, that the two persons appointed should have full power to make any award which they might deem proper, he should recommend him to withdraw the amendment, and permit the clause to remain as it originally stood.

Sir *James Graham* would at once reply to his right hon. Friend's suggestion by stating, that he only brought forward his amendment in consequence of what appeared to be the prejudice of this award.

He quite agreed with his right hon. Friend, that the most equitable course would be to place the railroad proprietors now in precisely the same situation as the proprietors of the soil were placed when their undertakings were commenced. Therefore, if his right hon. Friend (Mr. Labouchere), on the part of her Majesty's Government would adopt the opinion of his right hon Friend, the Member for Tamworth, and declare, that notwithstanding all that had passed, the arbitration in every case should be left to the free and unshackled discretion of two arbitrators, with an umpire to decide, if need were, between them, he would at once, with the permission of the House, withdraw his amendment.

Mr. *Labouchere* had no hesitation in replying to his right hon. Friend's appeal. He admitted, that it was the intention of the Government, in proposing this bill, that the arbitrators should be left entirely free, and with a perfect right to enter into such inquiries as they might deem necessary to enable them to make their award. He had felt it necessary, however, to state, that he thought it would require very special circumstances to justify the original cost of construction being taken into consideration. The wish of the Government was, that the whole question should be left to the decision of fair and honourable men.

Sir *James Graham* begged it to be understood, that if he had said anything in the shape of a threat it was not for a moment intended. He was quite satisfied with what had been stated by his right hon. Friend (Mr. Labouchere), and sincerely hoped, that the bill would operate in such a way as to prevent the necessity of any further Parliamentary interference. At the close of the discussion he begged to repeat, that if, contrary to his hope and expectation, any obstacles should arise from a system of unfair dealing on the part of the railroad companies, no Member of the House would be more ready than he should be to join with the Government in adopting the strongest measures to compel them to be just.

Amendment withdrawn, and clause agreed to.

Remaining clauses agreed to.

The House resumed.

PRISONS.] On the motion of Mr. Fox Maule, the Prisons Bill was read a third time.

Mr. *Langdale* rose to propose the clause of which he had given notice, relative to Catholic chaplains.

Mr. *Pakington* moved an adjournment of the debate, in consequence of many Members having gone away under the impression, that the clause would not now be brought forward.

Debate adjourned.

THE PUBLICATION OF EVIDENCE.] Mr. *Labouchere*, on moving (in compliance with a resolution of the Committee) " that leave be given to the Chairman of the Select Committee on combination of workmen to communicate such parts of the evidence taken before them, and to such persons, as he may deem necessary," observed, that the subject of the publication of evidence taken before Committees of that House, deserved the earliest and most serious consideration. At present, there existed no general rule for their guidance, and it often happened, that much inconvenience arose from a partial publication of the evidence, and sometimes from no publication of it at all.

Sir *R. Peel* quite agreed with the right hon. Gentleman, that great inconvenience oftentimes arose from *ex parte* evidence being published; for although the parties to whom the evidence was furnished might be enjoined not to communicate it to others, yet, if they did so, neither the Committee, nor that House had any control over them whatever.

The *Speaker* said, that this was a subject of very great importance, and one which it was necessary, that the House should take into consideration early next Session, and distinctly state what were the rules, that ought to be established. If this were not done the House would be infallibly driven to this alternative, either, that all evidence must become public, or, in order to obviate that evil, they must make a much greater number of secret Committees—a practice to be, if possible, avoided. The House, he thought, would fall into a very great error if it did not early next Session, and before any Committees were appointed, lay down some rule upon this subject.

Mr. *Labouchere* said, that he had made this motion as the Chairman of the Committee, and by their direction. He entirely agreed with the right hon. Baronet, that the publication of *ex parte* evidence was a proceeding which required the utmost caution before it was resorted to, and that it ought not to be left with the committee to be adopted or not according to their own opinions or notions. As an instance of the present loose practice upon this subject, he would mention a circumstance, that had occurred to himself. He was the Chairman of the Committee which sat last year on the West-India negro apprenticeship system. A great deal of *ex parte* evidence was taken before that Committee, and which in consequence of its containing attacks upon individuals the Committee did not think proper to lay before the House. But notwithstanding this the Committee directed him as Chairman, but against his own individual opinion and vote, to send a copy of such evidence to the parties attacked, and who were living at Jamaica, under an injunction, that they were not to communicate it to others. The hon. Gentleman concluded by saying, that after what had passed, he should withdraw his motion.

Sir *R. Peel* did not think, that the practice of printing evidence for the use of the Members of the committee was an unmixed good, inasmuch as it gave the Members an inducement not to attend the meetings of the committee, because they consoled themselves with thinking, that they should have an opportunity of reading the evidence—a duty which he was afraid, was not always very strictly performed.

Motion withdrawn.

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HOUSE OF LORDS,

Monday, July 23, 1838.

MINUTES.] Bills. Read a first time:—Loan Societies (Ireland); Public Records; Land Tax Redemption; Fines and Recognizances (Ireland); Court of Chancery (Ireland); and Fisheries (Ireland).—Read a third time:—County Treasurers (Ireland); and South Australian Act Amendment.

Petitions presented. By the Marquess of WESTMINSTER, from Beer Sellers of the Metropolis, against the Sale of Beer Act Amendment Bill.—By the Duke of NEWCASTLE, from a place in Hertfordshire, against a Grant to Maynooth.—By the Bishop of HEREFORD, from Clergy of Hereford, against Hindoo Idolatry; and from Thomas Dacre, Clerk, against parts of the Tithe Commutation Act.—By the Earl of RIPON, from a parish in the county of Northumberland, from the Wesleyan Methodists of King's Mead, Bristol, of Old Market-street, Bristol, of Hotwells-road, Bristol, of Portland-place, Bristol, of Bedminster, and of various other places, against the encouragement of Idolatry in India; and from a parish in Surrey, in support of the Established Church in Canada.—By Viscount MELBOURNE, several, for the extinction of Negro Slavery; and two against any further Grant for Church Endowments in Scotland.

CANADA—ESTABLISHED CHURCH.] The Earl of *Ripon* said, he was not present on Friday evening when the right rev. Prelate opposite had made some reference to him, on the occasion of a petition being presented respecting the state of the Established Church in Upper Canada. Now, as he might not be correctly informed with respect to what the right rev. Prelate had stated, he wished to know whether the right rev. Prelate had cast any imputation upon him, in consequence of his conduct in reference to an act passed by the Legislature of Lower Canada in 1833? He understood, that he had been accused of having been guilty of a breach of an act of Parliament, because the act of the provincial legislature had not been submitted to both Houses of Parliament before it was carried into effect. He, therefore, wished to know, what had been really stated by the right rev. Prelate.

The Bishop of *Exeter* answered: His statement was, that a bill had been passed by the Legislature of Lower Canada for the benefit of the Roman Catholic bishop of that province, which bill was required by the act of Parliament, to be submitted to that and the other House of Parliament, before it received the Royal assent. Now, in this case, that essential form had been dispensed with; and he felt, that the noble Earl, in dispensing with it, had neglected his duty. In taking such a course, the noble Earl was, he conceived, guilty of an important omission, though he was very far from supposing intentionally so. There was, unquestionably, a departure from the direction of the law in a very important instance. He also said, on Friday night, that, in the absence of the noble Earl, he would not then more particularly bring that neglect under the consideration of the House, but that he should do so at a future period.

The Earl of *Ripon* said, the right rev. Prelate proceeded on an assumption of both the fact and the law. The right rev. Prelate assumed, that the bill should be laid before both Houses of Parliament, prior to its receiving the Royal assent, which remained to be proved.

The Bishop of *Exeter* said, he had stated the matter, as he understood it; and that statement was not in the slightest degree affected by the doubt which the noble Earl had thrown out. The act to which he had alluded as having been passed by the Canadian Legislature, was one which gave in perpetuity a grant of 1,000*l.* a-year to the Roman Catholic bishop, in lieu of what was called his episcopal palace. He would advert to the subject again, before the termination of the present Session.

The Earl of *Ripon* was anxious that the matter should be accurately understood, and he hoped it would not be allowed to hang over till next Session. At the same time, he could easily endure the weight of the charge.

Conversation ended.

The Bishop of *Exeter*, seeing the noble Secretary for the Colonial Department in his place, would now ask the question of which he gave notice on Friday, namely,—"whether, in the official letter addressed to the Earl of Durham, or in the instructions directed to him, there were any variations from, or modifications of, the standing instructions given to his predecessors, since the acquisition of Canada, so far as respects the conduct which he is to pursue towards the Established Church in that colony, or towards those who are not in communion with it, especially the Roman Catholics?" Now, he found in the letter of the noble Lord, the following passage:—

> "The old standing instructions having been framed before the passing of the law for the relief of the Roman Catholics from the disabilities under which they formerly laboured in this country, are in many particulars conceived in a spirit opposed to the principle of religious toleration as now understood and practised. It is almost superfluous to observe, that to this extent they must be regarded as obsolete."

Did that passage, he asked, constitute part of the instructions given to the Earl of Durham?

Lord *Glenelg:* It did.

The Bishop of *Exeter* said, that as the passage which he had read was admitted to be a part of the official instructions sent out to the Earl of Durham in Canada, he could not but venture to express some surprise at the answer which the noble Baron had given him on Friday night, when he asked whether, in the new instructions, there was any departure from the instructions that had been uniformly acted on since the accession of the colony. The noble Baron had said, no material alterations had been made. Now, he was quite sure, that the noble Baron was convinced at the time, that any alteration which had been made, was in accordance with the old instructions, and was not material. But when the matter was considered, the contrary would be found to be the fact. He would ask the noble Baron, in what particular the old standing instructions were "opposed to the principle of religious toleration as now understood and practised?" In the first place, he would call the noble Baron's attention to the instructions given to Lieutenant-general Sir George Prevost, as Governor-in-chief of Lower Canada, in 1807, and which were laid before Parliament in 1813. The 42d paragraph was most important. It set forth—

> "Whereas the establishment of proper regulations on matters of ecclesiastical concern is an object of very great importance, it will be your indispensable duty to take care, that no arrangements in regard thereto be made, but such as may give full satisfaction to our new subjects in every point in which they have a right to indulgence on that head, always remembering, that it is a toleration of the free exercise of the religion of the Church of Rome only to which they are entitled, but not to the powers and privileges of it as an established Church, that being a preference which belongs only to the Protestant Church of England."

He believed, that he was correct when he stated further, that to give the established Church its just supremacy, any encroachment upon its jurisdiction was liable to be visited with severe penalties. Was that, he wished to know, one of the particulars from which the noble Baron authorized the noble Earl to depart? It was also provided,

> "That no vicarial power shall be exercised by any person professing the religion of the Church of Rome, except in so far as it is absolutely necessary to the free exercise of the Romish religion, and not to be legal, except under the seal of the said province, and under such limitations and restrictions as are provided under the Act of Parliament of the 14th year of our reign; and you are authorized to remove all priests from their benefices for criminal offences, or who are accused of having attempted to disturb the peace and tranquillity of the Government."

These, so far as he recollected, were the only points of instruction given, at the time to which he referred, to which the paragraph of the new instructions which he had read could allude; and he demanded, whether they formed the particulars referred to by the noble Baron? He should now read an extract from the treaty of peace concluded in 1763, by which Canada was ceded to the British Crown, and in accordance with which the instructions he had just noticed were drawn up. The treaty set forth,

> "His Most Christian Majesty cedes and guarantees to his said Britannic Majesty in entire sovereignty the province of Canada, &c. On his part, his Britannic Majesty agrees to grant to the inhabitants of Canada the liberty of the Catholic religion; accordingly, he will give the most precise and most effective orders that his new Roman Catholic subjects may profess the service of their religion, according to the rites of the Roman Church, so far as the laws of Great Britain permit."

In the spirit of the treaty was conceived the letter of the Earl of Egremont addressed to governor Murray, in August, 1763, from which he would read an extract:—

> "Though the King has, in the 4th article of the definitive treaty, agreed to grant the 'liberty of the Catholic religion to the inhabitants of Canada' and though his Majesty is far from entertaining the most distant thoughts of restraining 'his new Roman Catholic subjects from professing the worship of their religion according to the rites of the Romish Church,' yet the condition expressed in the same article must always be remembered—viz., 'as far as the laws of Great Britain permit,' which laws prohibit absolutely all Popish hierarchy in any of the dominions belonging to the Crown of Great Britain, and can only admit of a toleration of the exercise of that religion. This matter was clearly understood in the negotiation of the definitive treaty. The French Ministers proposed to insert the words *comme ci devant*, in order that the Romish religion should continue to be exercised in the same manner as under their Government; and they did not give up the point till they were plainly told, that it would be deceiving them to admit those words, for the King had not the power to tolerate that religion, in any other manner than 'as far as the laws of Great Britain permit.' These laws must be your guide in any dispute that may arise on this subject, but at the same time, that I point out to you the necessity of adhering to them, and of attending with the utmost vigilance to the behaviour of the priests, the King relies on your acting with all proper caution and prudence in regard to a matter of so delicate a nature as this of religion, and that you will, as far as you can consistently with your duty in the execution of the laws and with the safety of the country, avoid everything that can give the least unnecessary alarm or distrust to his Majesty's new subjects."

In all these documents the course that should be pursued towards the Roman Catholics in Canada was clearly defined. That the old standing instructions were framed long before the law was passed for the relief of the Roman Catholics was very true, but whether they should be altogether departed from was another thing. He wished to know from the noble Baron whether the articles which he had read, and which were in accordance with the principles of the treaty, constituted those "particulars" that, according to the late instructions given to Lord Durham, were considered to be opposed to the principle of religious toleration, as now understood by the Roman Catholics?

Lord *Glenelg* said, that the course taken by the right rev. Prelate was extremely inconvenient, but he would endeavour to answer the right rev. Prelate's observations. He thought, if the instructions referred to by the right rev. Prelate were fairly considered they would not appear to be censurable. In many instances it had been found necessary long since to depart from the old instructions. Indeed they could not be carried into effect. Thus, under those instructions the governor was directed to administer the oaths and declaration to the members of the Legislative Council, as provided for the different colonies by the 1st of George 2nd. Now, those oaths and that declaration would prevent any Roman Catholic from taking his seat. The consequence was, that after the Roman Catholic Relief Bill had passed, a commission was sent out, directing the governor to administer the oath according to that bill, and if the then governor, Lord Aylmer, had adhered to the old regulations, he would have broken in upon the provisions of that measure. No person who took the trouble to make himself acquainted with the purport of the instructions issued to Lord Dalhousie, could fail to see, that those instructions were of a nature which could not be acted on under present circumstances—they were wholly inapplicable to the present period, especially that portion of them was inapplicable which related to the House of Assembly. In his own instructions to Lord Durham he had not pointed out at any length in what manner or to what extent the former instructions had ceased to be applicable to the existing condition of Canada, he left that to the discretion of his noble Friend; this, however, he felt called upon to say to the House, that Parliament was bound in honesty to afford full and due protection to the Roman Catholic religion in Canada. Whatever was to be done respecting the Canadian Roman Catholics he contended should be done openly, and he was sure their Lordships would not sanction instructions addressed to her Majesty's representative in Canada, suggesting the adoption of rules, or rather the revival of obsolete regulations, which were intended to destroy the Church of Rome in that colony. He maintained that the old instructions could not be carried into effect. One of them was, that no person could hold a benefice in Canada without the leave of the Crown, unless he happened to be born in that colony. Again, any Roman Catholic priest might be deprived of his benefice on due proof of any seditious attempt to disturb the public place. He would ask what did the words "due proof" mean? They could mean nothing else than that which appeared to the mind of the governor "due proof." There was no noble Lord, he believed, would say that it meant anything but that which the governor of Canada for the time being should, without conviction or even trial, consider to be "due proof." If the old instructions were followed out to the letter, the penalties attaching to a Roman Catholic priest for entering into the holy state of matrimony could not be enforced. Surely this mode of administering the government of Canada would not be advocated by any but those who held that the end sanctified the means. Another of the old instructions declared that all burial-grounds should be open to all descriptions of persons. By the Roman Catholics indiscriminate burial was deemed gross desecration; there could, therefore, be no greater act of tyranny than the enforcement of such an instruction. The next of these instructions which presented itself to his mind was that which would deprive a Roman Catholic priest of his benefice for merely converting a Protestant. Were those regulations such as could in the present day be carried out, or were they not utterly opposed to religious toleration, as now understood and practised? Was any man bold enough, any persecutor insolent enough, to say that those regulations could be carried into effect?

The Bishop of *Exeter* said, that the noble Lord the Secretary for the Colonies appeared to him to speak under a misapprehension of the facts. The Romish Church was not the established Church in Canada, and in the original instructions, although it was declared that the Roman Catholics were to be tolerated, yet it was as distinctly affirmed that the Roman Catholic Church was not to have any power, pre-eminence, or authority. The Government of this country never had recognised any, except Prelates of the Established Church, as bishops of dioceses in Canada. Till within the last four or five years—a period with which he did not profess to be particularly well acquainted—the Roman Catholic bishops in Canada resided there, not of right, but by permission. In the instructions issued by Lord Egremont in 1763, there was a passage which declared that the exercise of the Roman Catholic religion in Canada was limited by the laws of Great Britain: surely, those laws prohibited the existence of a Popish hierarchy in the colonies. Now, what he complained of was, that the instructions to Lord Durham were conceived in a tone not merely of toleration towards the Roman Catholics, but in a spirit far exceeding anything that could be called toleration. He would move for copies of the instructions issued to the Governor-general of her Majesty's provinces in North America, together with copies of such portion of the commission under the great seal relating to the Canadas as had not already been communicated to Parliament, as also the letter from Lord Glenelg to the Earl of Durham, dated the 21st of April 1838.

Lord *Glenelg* was understood to say, that he felt no objection to communicate the papers moved for by the right rev. Prelate. He was sure their Lordships would agree with him in thinking that it was absurd to suppose that the old instructions could be carried into effect. As to the recognition of Roman Catholic Prelates in Canada, he could assure the right rev. Prelate that he was mistaken, for long before the last four years, the recognition had taken place, and that too by acts of the Legislature.

The Bishop of *Exeter* begged it to be understood, that he did not assent to the statement made by the noble Lord respecting acts of Parliament.

Lord *Glenelg*, it was done by provincial statutes which had received the sanction of the Crown.

The Bishop of *Exeter* said, that those acts ought to have been on the tables of both Houses for thirty days before they received the Royal assent, and he defied the noble Lord to show that that rule had been complied with.

Papers ordered.

Pluralities.] The Benefices and Pluralities Bill was read a third time,

On the question that the Bill do pass,

Lord *Portman* said, he could not consent to the passing of this bill, without shortly stating his opinions upon it. It was in his judgment a bill which, at no very distant period, would force upon the right rev. bench a complete and entire consideration of the whole subject of Church temporalities, and believing this would be the case, and that thus the wishes of the great mass of the people would be accomplished, he did not intend to oppose its now being passed into a law. The bill was, however, not so fair and just as to be able to stand; it imposed, he would not say great penalties, but great changes in the whole property of patrons; it gave enormous powers to the bishops, while it afforded but small remedies for the grievances under which the incumbents of this country laboured. It was true it went to enforce residence—a provision which he hailed with satisfaction, but which he feared was not founded upon a principle that could be permanent. He complained of a want of reciprocity as between the clergy and the laity, and he could not but feel there should have been an equal check upon the bishops. Again, there was a want of reciprocity in the arrangements contained in the bill with reference to peculiars, and all peculiars were abolished, except they were within the jurisdiction of a bishop or an archbishop. There was one part of the bill which he grieved to see, and that was the manner in which it recognized an immense mass of existing abuses. He was aware it was exceedingly difficult, and perhaps not strictly right, to press severely upon individuals holding existing privileges with rights recognized by law, but he believed there were many matters recognized by this bill which were of doubtful law before. He alluded particularly to the many cases of exemption from residence which were embodied in this bill, and under it would be sanctioned. Again, the sixth clause imposed upon the most rev. Prelate (the Archbishop of Canterbury) a most painful duty—a duty which he (Lord Portman), however, did not doubt the most rev. Prelate would exercise with that tenderness which was so peculiarly his characteristic. The duty he alluded to was this—that when a question arose before a bishop as to the fitness and expediency of a living being held in plurality, the most rev. Prelate would have to be satisfied, not only of the fitness of the clergyman appointed, but of the expediency of his holding two preferments. Now, it would be a great grievance upon a clergyman that his patron should not alone be permitted to judge of his fitness, but that he must undergo a further investigation by thé most rev. Prelate. There were many other points to which he objected, but to which it was needless to refer, as he did not intend to oppose the passing of the bill. He, however, felt, that legislation in this matter had been begun at the wrong end, and that the result of this bill would be to force a full reconsideration of the whole subject.

Bill passed.

HOUSE OF COMMONS,

Monday, July 23, 1838.

Minutes.] Bills. Read a second time:—Liverpool Clergy.—Read a third time:—Tithes and Land Merger; Land Tax Commissioners Names.

Petitions presented. By Mr. Fitzroy, from Lewes, by Mr. Strutt, from the Wesleyan Methodists in Derby, by Sir R. Inglis, from the Church Missionary Society, by Sir H. Vivian, from the Wesleyan Methodists of Bodmin, in Cornwall, by Mr. Baines, twenty-six, from different parts of York, Nottingham, and Lincoln, and by Sir W. James, three, from Newcastle, for the suppreſsion of Idolatrous Worship in India.—By Mr. Hume, from the Licensed Victuallers of Kilkenny, against the present Licensing system; and from the Relief Church of Aberdeen, against the monopoly of the Queen's Printers in Scotland.—By Sir R. Inglis, from Derby, against any further Grant to Maynooth.

Prisons.] On the motion of Lord J. Russell, the order of the day for resuming the adjourned debate on the third reading of the Prisons (England) Bill, was read.

The question was the introduction of Mr. Langdale's clause to appoint Roman Catholic chaplains, when the number of Catholic prisoners should be great.

Sir *R. Inglis* opposed the clause of the hon. Member for Knaresborough. A proposition involving the same principle stood on the paper under the name of his hon. Friend and colleague (Mr. Estcourt), but he should oppose both, on the same ground. However obligatory it might be on the conscience of individuals to provide spiritual instruction for the destitute persons of their own Church, the nation was no longer at liberty to exercise any discretion on that point. The State having established one particular Church as the authorized depository of its faith, it should not give its sanction by any specific payment to any clergyman of another Church.

Mr. *Langdale* supported the clause, the operation of which, he said, would not extend to more than a few prisons in the metropolis and Lancashire, where there were a great number of inmates dissenting from the religion of the Established Church. He put it to the House whether they would, by rejecting the clause, deprive those ignorant and demoralized men of the only religious instruction of which they could avail themselves—that furnished by the clergymen of their own communion.

Mr. *Estcourt* would oppose the clause, whether the amendment he had placed on the paper were rejected or not. He was not unwilling to afford proper religious instruction to the Dissenting prisoners, for which he conceived his amendment would make full provision, but he would not go the length of adopting the hon. Member's proposition.

Mr. *W. E. Gladstone* must oppose both the clause and the amendment of which his hon. Friend near him (Mr. Estcourt) had given notice. He objected to any infringement whatever of the principle on which the Established Church was founded—that of confining the pecuniary support of the state to one particular religious denomination. At present Roman Catholic priests, as well as other Dissenting clergymen, were allowed to have access to the prisoners of their own communion. As to what might be said of the destitution of the prisoners, he apprehended that the House would not recognize the sufficiency of that plea, if set up by any class of poor persons out of doors dissenting from the Established Church in favour of a provision for their religious instruction.

Lord *J. Russell* did not think with the hon. Member who spoke last, that the case of prisoners was not distinguished from that of poor persons out of doors. In his opinion, prisoners stood peculiarly in need of religious instruction, as they were men either condemned for or suspected of crimes against the peace and good order of society, and there was a positive obligation on the Legislature to convey to them as much instruction as might serve to eradicate their vices. If a clergyman of the Church of England was sent to Roman Catholics, they would not consider him authorized to give religious instruction, and his lessons would have little or no effect. For these reasons he felt disposed to give his assent to the proposition.

Mr. *Gibson* thought the case of prisoners might be legitimately exempted from the operation of the rules which governed the Legislature in reference to other classes. If the religious instruction of the Dissenting prisoners were left to voluntary efforts, they would be neglected. In other cases of peculiar exigency, as in the grants to Protestant Non-conformists and others in Ireland, Parliament had relaxed the strictness of those maxims tn which it ordinarily adhered. The system which the clause would permit in this country had been already tried in Ireland, and found to produce much good. He therefore would vote for the clause.

Mr. *Hawes* thought it very desirable that the House should come to some satisfactory arrangement of this question, now that they had the opportunity. He hoped the House would adopt the clause.

Lord *Stanley* concurred in what had fallen from the hon. Member for Ipswich (Mr. Gibson), though certainly not to the extent that no moral or religious instruction should be communicated to persons confined in prisons but by men of the same persuasion as themselves; but he fully concurred, and he thought the House could not but concur, in the remark, that if they desired to reform the morals of prisoners by means of the communication of religious truth, an infinitely greater degree of success might be expected from the effect upon those prisoners of the ministrations of persons of their own creed. He would not support this clause if he thought it possible that the principle applied by it to the case of prisoners in gaols could be extended to the community at large. He thought, however, it was important that the magistrates should have the power of selection, and power of dismissal; for he did not approve of the manner in which the clause of the hon. Gentleman fettered the discretion of the magistrates. But, upon the whole, if the House went to a division, believing as he did it to be an imperative duty to provide the prisoners in gaols with moral and religious instruction, he should support the clause.

The House divided. Ayes 131; Noes 30.—Majority 101.

List of the AYES.

Alston, R.
Archbold, R.
Baines, E.
Bannerman, A.
Barnard, E. G.
Barrington, Viscount
Bernal, R.
Blackburne, J.
Bowes, J.
Bramston, T. W.
Bridgeman, H.
Briscoe, J. I.
Brotherton, J.
Browne, R. D.
Brownrigg, S.
Bryan, G.
Buller, E.
Campbell, Sir J.
Chalmers, P.
Chetwynd, Major
Childers, J. W.
Clay, W.
Clements, Lord
Coote, Sir C. H.
Cowper, hon. W. F.
Craig, W. G.
Crawley, S.
Curry, W.
Darlington, Lord
Douglas, Sir C. E.
Duckworth, S.
Dunbar, G.
Duncan, Lord
Dundas, F.
Eastnor, Lord
Elliot, hon. J. E.
Ellice, Capt. A.
Estcourt, T.
Evans, G.
Ferguson, R.
Finch, F.
Follett, Sir W.
Goulburn, H.
Grant, F. W.
Grey, Sir G.
Grimston, Lord
Grimston, hon. E.
Grosvenor, Lord R.
Harvey, D. W.
Hastie, A.
Hawes, B.
Hawkins, J. H.
Hayter, W. G.
Herbert, hon. S.
Hill, Lord A. M. C.
Hillsborough, Earl of
Hobhouse, T. B.
Hodgson, F.
Hogg, J. W.
Holmes, W.
Hope, hon. C.
Howard, F. J.
Howick, Lord
Hume, J.
Hutton, R.
James, W.
Labouchere, H.
Lascelles, W. S.
Lemon, Sir C.
Lowther, J. H.
Lucas, E.
Lushington, C.
Macleod, R.
M'Maggart, J.
Maher, J.
Mahon, Lord
Marshall, W.
Martin, J.
Martin, T. B.
Maule, hon. F.
Melgund, Lord
Mildmay, P. St. J.
Morpeth, Lord
Murray, J. A.
O'Brien, W. S.
O'Connell, D.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Parker, J.
Parker, M.
Parker, R. T.
Pechell, Capt.
Peel, Sir R.
Phillips, M.
Pigot, R.
Ponsonby, hon. J.
Power, J.
Praed, W. M.
Praed, W. T.
Pusey, P.
Redington, T. N.
Richards, R.
Roche, E. B.
Rolfe, Sir R. M.
Russell, Lord J.
Sandon, Lord
Seymour, Lord
Smith, J. A.
Smith, R. V.
Somerset, Lord G.
Somerville, Sir W. M.
Stanley, E. J.
Stanley, Lord
Steuart, R.
Strutt, E.
Sturt, H. C.
Style, Sir C.
Surrey, Earl of
Teignmouth, Lord
Tennent, J. E.
Thornely, T.
Troubridge, Sir E.
Turner, E.
Villiers, C. P.
Wall, C. B.
Warburton, H.
Wilmot, Sir J. E.
Wood, C.
Wood, G. W.
Yates, J. A.

TELLERS.

Langdale, C.
Gibson, J.

List of the NOES.

Alsager, Captain
Ashley, Lord
Baker, E.
Blackstone, W.
Blair, J.
Broadley, H.
Burrell, Sir C.
Chandos, Marquess of
Chute W. L. W.
Darby, G.
Ellis, J.
Farnham, E. B.
Gladstone, W. E.
Hodgson, R.
Kinnaird, hon. A. F.
Knightley, Sir C.
Lefroy, rt. hon. T.
Lockhart, A. M.
Lygon, hon. General
Mackenzie, T.
Pakington, G.
Palmer, G.
Perceval, Col.
Rose, Sir G.
Round, J.
Sanford, E. A.
Sinclair, Sir G.
Trench, Sir F.
Vere, Sir C. B.
Verner, Colonel
Wood, T.

TELLERS.

Estcourt, T.
Inglis, Sir R.

Clause agreed to.

Bill passed.

TITHES (IRELAND).] House in Committee on the Tithes (Ireland) Bill.

On the first Clause,

Lord *John Russell* proposed to omit it, and substitute for it a clause declaring, that the right of all persons to tithes, or to composition of tithes which had already accrued, or which might hereafter accrue, should cease and determine, &c.

On the amendment being put,

Sir *R. Peel* rose and said, Sir, I have an amendment to propose to the clause which the noble Lord has moved should be substituted in lieu of the first clause of the bill, and which has been just read from the Chair. The noble Lord's substitute clause proposes, that the rights of all persons to tithes and compositions for tithes which have already accrued, or which may hereafter accrue, shall altogether cease and determine. The effect of this proposition would be to give a legislative extinction to all tithes, or arrears of tithes, that have already accrued. With respect to the extinction of all right to tithes which may hereafter accrue, I do not so much object to that part of the proposition, for Parliament proposes to give as a substitute in lieu thereof, a permanent and secure rent-charge. But, Sir, I very much doubt the policy of extinguishing all right to tithes which may have heretofore accrued. At the same time, when I say this, I fully feel the difficulties by which the subject is environed, and I agree in the desire, so far as not to violate any principles, to make a final and satisfactory settlement of this question by the legislative extinction of tithes. I agree in the noble Lord's proposition that a sum should be applied to the extinction of all arrears of tithe, and, that it should be a definite sum. I am satisfied with the proposal of the noble Lord, that a sum of 300,000*l.* should be applied to the liquidation of those arrears. That sum is to be composed of the remainder of the million, namely, 268,000*l.*, and over which the noble Lord has absolute control, and of 40,000*l.*, which the noble Lord expects to be able to make up from the recovery of the amount of claims still due by solvent parties. The noble Lord then proposes, that that sum, which for the sake of clearness, I shall assume to be 300,000*l.*, shall be together applied to the liquidation, exclusively of the arrears of 1836 and of 1837. On these parties to whom the arrears for these two years are due, receiving their portion of the amount to be applied to this purpose, the provision of the noble Lord's clause is, that then and thereafter, the claims to arrears of all persons being tithe-owners should be extinguished by law. Now I very much doubt the justice, as well as the policy, of that proposition. In the first place let us take the case of an incumbent who vacated his living at the commencement of 1836, and who had claims for arrears for 1834 and 1835. Now, would not the peculiar force of this case be considerably augmented if it should appear, that such an incumbent had forborne to enforce these claims from a desire to wait until he should be enabled to understand what opinion Parliament would express with respect to the final settlement of this question. Well, then, let us take another case. Let us take the case of a widow whose husband died at the commencement of 1836, and who had unsatisfied claims for arrears of tithes that accrued in the years, 1834 and 1835. Now, would it not be unjust that this party, without having received any kind of compensation whatever, should be deprived of her undoubted legal right to recover the amount of these unsatisfied claims? Indeed, Sir, I must repeat, that I very much doubt the policy as well as the justice that persons who at present are in the possession of legal rights to enforce the recovery of debts due to them, shall by your enactment, be deprived of those rights, and lose the power of recovering the debts due to them, for no other reason than that other persons, who had no better claims, should be enabled to receive a proportion of what was due to them for two years. Why, what was it more than this, that one party whose claims related to two antecedent years should, without any compensation or consideration whatever, lose all claims, and be deprived of their legal rights on the payment to other parties of arrears or compensation in lieu of arrears which related to the two subsequent years of 1836 and 1837.? I doubt the policy of your declaring as you do by this clause, that under no circumstances in future shall tithes be enforced. That no matter how solvent a debtor may be—that no matter how contumacious, vexatious, or obstinate the resistance to the payment of these claims may have been, you are by your legislative act to declare this resistance successful, and that neither the titheowner nor the Executive Government shall hereafter be enabled to enforce the payment of these arrears. I fully agree that Parliament must interfere for the settlement of these arrears by a specific grant of a sum of money, which sum, I agree, should be that which the noble Lord proposes to apply to this object. I also agree in the propriety that Parliament should clearly understand what amount of pecuniary burthen should be placed on the United Kingdom for the settlement of this question. I do not call upon the Government to make any proposal that the amount of arrears, which amount is indefinite, should be paid in the proportion of 75 per cent. or of 60 per cent. This would not be a reasonable expectation to entertain, that the Government should make an indefinite proposition of this kind. The amount of arrears being unascertained and indefinite, were such a proposition made, the sum applied for their liquidation would be indefinite also. It seems to me reasonable that Parliament should only be called upon to grant a definite sum; but that Parliament should ascertain what proportion this sum would bear to the arrears, and that an option should be given to the party to whom the arrears are due to accept or reject the terms offered by the Government. I would also propose that in every case where the offer was accepted, the Government should inherit the right of the tithe-owner, and should be left the power to determine whether they would enforce the payment of the amount due by the debtor or not. By the adoption of my proposition you will save two principles. You will avoid violation of the rights of property, which will not be the case if the proposal of the noble Lord, in its present state, be carried into effect. I do not think it is fair, that you should force parties to accept certain sums in lieu of existing rights. I can understand that you may fairly say to a party, "We offer you a certain sum in lieu of your existing rights—we make that compensation as liberal as we can—you may refuse it if you like; but we warn you, if you do that, you must expect great difficulty in the recovery of those arrears. You may seek to recover them if you choose; and if you take that option, we will do our duty towards you. We will assist you with the aid of the civil power, whenever it be necessary; but you may find it wiser to accept the compensation which we now offer you in lieu of those claims." I can very well understand the fairness of pursuing such a course as this. You would do injustice to no one, because you would leave to every party the power of rejecting or accepting the offer you made them. If they did accept your offer, the object you have in view would be carried into effect without any violation of the rights of property; and if they did not accept your offer, you would leave every party in the situation in which you found them. My own opinion, undoubtedly is, that your offer will be accepted; and that the tithe-owner will consent to accept his proportion of 300,000*l.* I think, that the opportunity of accepting or refusing that offer should be given. To those who declaim so eloquently, and object so strongly to the application of the public money to any such purposes as this, I very much fear that neither the noble Lord's proposition, nor mine, will be likely to give much satisfaction. It is very easy to talk in this way. It is very easy for hon. Members, who have no connection with Ireland, and who are not acquainted with the condition of things in that country, to get up and say, "Oh, why should not these claims be enforced? Why should not these arrears be recovered, by pressing for the payments on those by whom they are due?" I object to the burthen of such an amount for the settlement of tithes being placed upon this country." It is quite easy to talk in this way. I agree upon this point, that it is easy for hon. Members who have no responsibility, to get up in their places, and declaim in this way; and, after having become warm and eloquent upon the topic, then sit down to enjoy the cheers with which their speeches are applauded. But, Sir, no one can deeply and fully consider this question, without becoming fully sensible of the difficulty of bringing it to a satisfactory conclusion; or without, on the other hand, being convinced of the beneficial consequences that would result from the final settlement of the question on a permanent and satisfactory basis. However, if the advance of 300,000*l.* would secure the permanent and satisfactory settlement of the Irish tithe question, I firmly believe, in even the narrowest view of the question, that with respect to the pecuniary burthen to be placed on England and Scotland, I say, that I firmly believe, if such a result could be secured, that the peace of Ireland would be cheaply purchased by the payment of 300,000*l.* Nay, more; if it depended solely on my own wish, I do not hesitate to say, that I would not shrink from even a farther advance if I felt that we could thereby place ourselves upon the threshold of a satisfactory settlement. Because it appears to me, that we are going to place the question on an entirely new footing, and to place the payment of the clergy on a totally different system. Whatever may be the effect, or whatever difference of opinion may be entertained with respect to the Established Church, we are going to place the tithes upon an entirely new footing, and a system altogether new. We are about to place the Irish landlords under an obligation of taking on themselves the support of the clergy of the Established Church. We are going to give to the clergy of the Established Church the most enlarged powers for the protection of their future income, which we have thought fit should be reduced in amount, in consideration of the increased security to be derived from the altered system under which they are placed. We are going to remove the clergy from all contact with the occupier in the relation of tithe-owner and tithe-payer. We all agree, that this is desirable. But then we cannot do this, without first making some just and reasonable provision for the settlement of the arrears. Now, in concurring in the necessity of doing this, I can by no means concur in the opinion expressed, a few days ago, by the hon. Member for Southwark, that this is only the first of a series of demands which this country will have to answer on the part of the Irish Church. I by no means think, that any such thing is likely to be the case. Nay, more; I can hardly see the circumstances under which, after what we are doing now, it is possible that there can be a fresh demand on the part of the Irish Church. I will, then, assume, that the sum of 300,000*l.* is to be applied to the settlement of this question. Our single wish is, to effect that settlement in a satisfactory manner. As I am anxious to do justice to the clergy of the Established Church in Ireland, I would even consent that, within certain limits, the sum of 300,000*l.* should be still further increased; but under existing circumstances, that is, perhaps, impossible. Whatever is to be the amount, it seems to me that it would be desirable, that the Government should take the additional sum out of the Consolidated Fund. Whatever the sum is to be, let it be at least a definite sum. I believe the noble Lord calculates with certainty, on being able to recover 40,000*l.*, to make up the remainder of the 300,000*l.* I therefore, think, it would be much better, and give an increased feeling of security, if the Government would advance the whole sum of 300,000*l.*, and hold themselves responsible, or at least should themselves undertake the collection of the 40,000*l.* which the noble Lord expects to be able to recover. Let them repay the advance of the 40,000*l.* by applying to that purpose the sums that they expect to recover from the landlords. Let us, then, agree, that the sum of 300,000*l.* should be the amount advanced by Parliament. My proposal is, that nothing should be done until we first ascertain the amount of the arrears due. I sincerely desire, that we should approach the settlement of this question altogether unprejudiced, and only governed by the consideration of how we may best come to the most satisfactory and beneficial result. I hope hon. Members will be convinced, that by adopting my proposition they will commit no violation of any principle—that they will not interfere with any rights of property; and that my plan, whilst it possesses those advantages, has an equal tendency to the settlement of the question. I propose no appropriation whatever of the money advanced without full preliminary inquiry. As I said before, I would appoint a commission to inquire. Should the expense of a commission form any ground of objection, I do not think there would be the least difficulty in finding persons, sufficiently alive to the interests of the Church, to be willing to undertake those duties if it should so be wished, without compensation. I propose, that three commissioners be appointed; let two of them be appointed by the Government, and let the third be appointed by the Primate of Ireland. Or if this be objected to, let the Government have the appointment of the three commissioners but let it be understood that one is to b' appointed specially to watch over the interests of the Established Church. I would then propose that these commissioners should proceed to inquire into, and to review the whole subject of arrears of tithes; that they should collect information with respect to the amount of arrears now due, not alone the arrears due on account of 1836 and 1837, but likewise of the arrears due on account of 1834 and 1835. I would propose, that the amount due for all the years should be stated, and that the commissioners should class those arrears under different heads—that those of 1834 should be classed by themselves, and so on for each year, down to the arrears of 1837, thus including in this way each of the four years, for which the arrears are due. I would also propose, that the commissioners should mention in their report any special circumstances connected with any particular portion of those arrears, that those matters of a special nature might afterwards be taken into consideration. After the commissioners had ascertained the amount of the arrears, and what proportion was due for each year, I would then propose, that the money advanced should be applied, not for the liquidation of the arrears of any one or two years, but that it should embrace within its scope the whole of the four years. I would not apply the same principle to the whole of the arrears, but I would not exclude the whole or any part thereof from the benefit of the compensation, not of course giving the same amount of compensation with respect to 1834 and 1835, as with respect to those of 1836 and 1837. There may be cases in which many of the clergy suffered those arrears to accrue from a forbearance on their parts, and from a wish to avoid the introduction of causes of disturbance or agitation into their parishes. With respect to these cases I will now say nothing, but propose that the commissioners should ascertain the facts, and should in their report suggest for future consideration the principles on which repayment should be made. I would, moreover, propose, that the plans suggested by the commissioners should not be binding until they should have received the sanction of Parliament. Nothing would then remain to be done in this respect, but that the 300,000*l.* should be divided on such principles as would appear to be most consistent with justice for the settlement of those arrears. Now, as to the offer of compensation, it is my firm belief, that in nine cases out of ten, the offers would be accepted, and that without any violation of the principles of property, we should be enabled to arrive at a satisfactory settlement of the tithe question. To come now to another point of the noble Lord's proposal. The noble Lord proposes, that in paying the arrears for the two last years, the right to the recovery of all arrears which had previously accrued should altogether cease, and be entirely forfeited. Now, surely, there would be no justice whatever in that proceeding. We could introduce or promulgate no more dangerous principle than that of acknowledging a claim and denying a remedy. The claim becomes at once extinguished if the remedy be taken away. You make an advance of money, the distribution of which is to be confined to particular parties, and though you declare your intention to extinguish the rights of other clergymen, you say that they are to receive no compensation whatever. Now, surely, no one can attempt to say that this is justice. Take the case of a clergyman, who, at great expense, and by great trouble and exertions, brought his claims for the arrears due to him in the two antecedent years to a successful issue, but though he had succeeded in placing them on this footing, had himself received no benefit. Well, he dies, or is transferred to another parish. A new incumbent comes in in 1837, and reaps the whole benefit of the exertions of his predecessors. You then give this new incumbent all the benefit of your compensation, whilst his predecessor, the benefit of whose exertions he has reaped, gets nothing in respect of the arrears relating to the two antecedent years. You say to the representatives of this man—"We will give nothing whatever to you—this Parliament has determined to take away your legal rights—we will give you nothing to compensate you, but we will take care to deprive you of the power to enforce your undoubted and acknowledged claims." This, let me warn you, is a dangerous principle to introduce into legislation, and is as applicable to every other claim, no matter what its nature, as it is to the payment of these arrears. It is saying to any man whose rights you take away—"You must make a sacrifice for the benefit of the public, but we will take care that the whole burthen of that sacrifice shall fall exclusively upon yourself." There are many instances in which you may apply the same principle on the same grounds. It would be easy to show, if that principle were recognised in our legislation, that no property would be safe. As to what should be really done, my proposal comprises the whole case and meets every difficulty. I would include the tithes of 1834, as well as those of 1837. I certainly might feel it right to allot a smaller sum to him to whom arrears were due from 1834, than to the individual whose arrears had accrued in 1836 or 1837. As I said before, I believe, if, as I think you ought, you were to give the option, that in most cases your offer would be accepted. You might, if you thought it necessary, contract the time during which the option should be given. I was represented to have said on a former occasion that fifty per cent would be an adequate compensation. I have since got several letters from Ireland stating that fifty per cent. was too little. But I have this difficulty to deal with—the sum to be appropriated to this purpose is definite, whilst the amount of the arrears is indefinite; so that I only know one part of the question. It strikes me, however, that the proportion between the arrears and the sum advanced for compensation, may enable you to offer fifty per cent. for the arrears of the two first years, and sixty-five per cent. for the arrears of the two last years. I have this to observe, that in case your offer is refused by some of the parties the more will remain to be divided amongst those who accept your proposal. Parties will consider whether it is not better to accept the offer of the Government than to bear the burthen of enforcing their own rights. I am firmly convinced that before three months, most of the parties to whom these arrears are due, would be anxious to get instead of them a net advance from the public funds. But even if they did not accept your offer, I believe that such a plan would be equally successful if you carry into effect the amendment which I now have the honour to submit to the consideration of the House. My amendment is this. In the fifth line of the clause which the noble Lord proposes to substitute for the first clause of the Bill, I propose after the word "accrue" to insert words to the effect, that the rights of all persons to compositions for tithes, or arrears of tithes, shall, in the cases hereafter mentioned, vest in her Majesty, and that the rights of all persons to tithes to be hereafter due, shall altogether cease and determine. If the words I propose, be adopted, it will imply that in certain cases, to be hereafter more fully and specially mentioned, if the offer made to the tithe-owners shall be accepted, the existing right of tithes should be transferred from the clergy to her Majesty's Government. It would rest in their hands then to determine whether or not these claims should be extinguished; but in any case, unless compensation was given, I contend that the rights of parties ought not to be interfered with. My proposal does not involve a greater advance of the public money than that of the noble Lord. The sum proposed to be granted, will be sufficient, as far as I can at present see. The sum to be devoted to this purpose is subordinate to the greater and more important consideration of what is the best mode to settle this question with a view to securing the peace of Ireland, and also without violating any great public principle, or the rights of property. Keeping before our minds the great principles which should ever guide our legislation, our duty is to consider what is the best mode in which we can come to a final and permanent settlement of this question. It is of the deepest importance that whatever settlement we make should be satisfactory, and that, whilst we secure the peace of Ireland, we should endeavour to place on a proper basis the interests of the Church. I sincerely hope that neither my proposition, nor that of the noble Lord, will be rejected on the ground which was put forward the other night, namely, that the Protestant Church in Ireland is on a rotten foundation. I cannot help saying, that I heard with deep regret that speech of the noble Lord (Viscount Howick) having a tendency to produce excitement and alarm amongst the friends of the Established Church in Ireland. I can very well understand the grounds on which the noble Lord felt it consistent to abandon the appropriation principle, but having abandoned that principle of appropriation, why did the noble Lord think it becoming in him to make a declaration which would excite alarm and agitation in Ireland, and which was calculated to prevent, so far as the declaration of a Minister could prevent, the success of the measure which the noble Lord himself had brought forward. For my part, Sir, it is my sincere belief, and my strong conviction, that the Established Church will be maintained in Ireland. I believe it absolutely essential to its maintenance that the limited provision now about to be made for the support of its clergy, should continue to be made. I consider, indeed, that after the deductions from the income of that Church which Parliament has decided on making, that there will not remain more than is barely sufficient to maintain the clergy in that decent comfort which is necessary to the performance of their ecclesiastical duties. I am at the same time certain, that you will never reconcile the people of Ireland to the continuance of that Church by merely providing that ten per cent. shall be deducted from the amount of the revenues of the Church, and still less will you succeed in that end by declaring that an indefinite and unascertained surplus which may probably accrue at a period some forty years hence shall hereafter be applied to the purposes of education. I think it much better that that sum which is the property of the Church should be appropriated to the support of the ministers of that Church. Depend upon it, the noble Lord will be no more able to maintain the principle which he propounded the other night, than he was able to maintain the appropriation principle. The noble Lord says, that if he pushed his principle to its legitimate extent, that he ought to go further. Why, possibly in the declaration he made, we may find some clue to the interpretation of that principle. It would be better that the noble Lord should at once, and above board, tell us what is the conclusion of his principle, and what is the ultimate limit of its application. I tell the noble Lord, that I consider that his principle, if brought to its legitimate conclusion would be nothing more nor less than establishing the religion of the majority, and of transferring the wealth and influence of the minority to the support of the Church of the majority. If this be the legitimate conclusion of the noble Lord's principle, let me tell him, that no intermediate arrangement will give him any chance of such a settlement. What is the security that we hold for the maitenance of the Established Church. It is a fundamental principle of our constitution that the Protestant religion should be established as the religion of the State. In addition to this we had a guarantee at the time of the Union of Ireland with Great Britain that the Protestant Church should be maintained in its integrity as the Established Church of that country. And mark you, this guarantee was given at a time when, whatever anomalies existed in that country were as well known as they are now, and when the disproportion between the Catholics and Protestant inhabitants of Ireland was as well known as it is at present. Well, then, at the time of the Union we were given an additional guarantee, that the Protestant Church should be maintained as the Church of the State. We had besides this the moral guarantee that ought to be held binding by the parties who gave it, and who assumed at the time, that the removal of the civil disabilities of the Roman Catholics was perfectly consistent with the maintenance of the Protestant faith as the established faith, and with the maintenance of the Protestant Church as the Established Church of the country. In every thing that we did we always took care to maintain that principle. If you ask me to depart from that principle, I say I will not consent to do so, because you now assume a new position. I will not consent, no matter what may be the disparity of numbers, that the Protestant religion shall be maintained as the established religion of that country. I will insist that there shall be a sufficient provision to support the episcopal dignity of that Church, and to maintain its Clergy in decent comfort. This is a position which I can understand, and this is a position which I think I can maintain. You say let four-fifths of the property of the Church be applied to the use of the Church, but let one-fifth be appropriated somewhere else and applied to some other purpose. I said when you made such proposal, that I never would give my consent to any such proceeding—that if I consented I should only weaken my title without acquiring any additional security. I believe, that the maintenance of this great principle is of the deepest importance—I mean the principle of maintaining the Established Church. I don't think that you will ever approach a satisfactory settlement of this question if you go the length of pushing the noble Lord's principle to its legitimate conclusion, and establishing the Roman Catholic religion as the religion of the State. I don't believe, that by pursuing such a course as this you will stand much chance of making a satisfactory settlement of Irish questions. I think, on the contrary, that you will only open fresh causes for discontent and excitement, and, instead of a satisfactory settlement of Irish questions, you will lose all chance of securing satisfaction, and establishing the settlement of these questions on a satisfactory basis. If you take such a course as that to which I have adverted, you will run the imminent risk of renewing in fresh activity those dreadful contests of religious opinions which have heretofore existed, and which it has been the object of Parliament to extinguish. In expressing my determination to maintain the Established Church, I adopt the principles that were settled at the Revolution—those principles which were further recognised and confirmed by the Act of Union, and additionally guaranteed and strengthened at successive times by every promise and pledge that Parliament could give. I repeat, that whilst I admit the perfect equality of civil rights in all classes in the State, and whilst I would remove any disability and extinguish every distinction, I consider it to be a fundamental part of the constitution of this country, and a principle intimately identified with its welfare, that the Protestant Church shall always continue to be maintained as the established religion of the State. In conclusion I will say that, after we have made every reasonable concession with respect to the amount of tithes in Ireland, the remaining amount of tithe, or of the revenue substituted in lieu thereof, should be solely and exclusively applied to the support of the ministers of that religion, which I trust we shall ever feel it one of the highest duties to maintain as the established religion of the State. The right hon. Baronet concluded by proposing an amendment, to insert after the word "accrued" words "due in Ireland shall, in the case hereinafter mentioned, be vested in her Majesty, her heirs, and successors, and that the rights of all persons in and to all tithes or compositions for tithes:" that the rights of all parties to recover arrears of tithes should be maintained, and that where parties consented to accept the terms proposed by the Government, the right of all such parties should be transferred to, and vest in, the Government.

Lord *John Russell* commenced by observing that the right hon. Baronet, in pursuance of the plan stated by him to the House a few evenings ago, had now brought forward a proposition, differing in some respects from that suggested by the Government, but still proposing by not very dissimilar means to put an end to those contests which yet continued to arise in Ireland with respect to arrears of tithes. In the observations which he should make he would confine himself exclusively to the proposition of the right hon. Baronet; without going again into the plan proposed by the Government he would state what he felt with regard to the amendment, and then leave it entirely to the Committee to decide which course of proceeding they thought would be most conformable as well with the justice of the case as with the final and satisfactory settlement of the question. The right hon. Baronet had stated two points which he (Lord J. Russell) considered of minor importance, and one which he thought of very great importance with respect to the sum of money now to be advanced. The right hon. Baronet said, that the Government proposal only went the length of paying the arrears of tithes for the last two years, and that it did not include the arrears of the years 1834 and 1835. The reason of that distinction was, that when the proposal was originally submitted to the House it was stated, that only the arrears of the last two years were to be taken, and that former years were to be considered as years during which it was not likely that arrears could be collected. At the same time there were, no doubt, cases—special cases, particular and individual cases—to which it might be desirable that a part of this sum should be applied. He should not propose, however, to alter his general proposition, although, if he understood the right hon. Baronet's suggestion correctly, the only difference would be, whether the 300,000*l*., supposing it to be 300,000*l*., should be partaken in by persons who had a claim for arrears in the years 1834 and 1835. The next point was, with regard to the making up the sum of 300,000*l*., and not leaving it, as the Government proposed, at 260,000*l*. He had an objection to the right hon. Baronet's proposition upon that point, although it was not upon the ground, that the state would be any loser by adopting the alteration; on the contrary, he thought the sum collected would exceed 300,000*l*. Therefore, if the question were merely one of money, he thought, that by fixing the sum at 300,000*l*. the state would be rather a gainer than a loser by the change. But the sum of 260,000*l*. was originally taken upon this ground, and it was a ground that had considerable effect upon the House, namely, that the original grant was 1,000,000*l*., and that 260,000*l*. was the balance or remainder of that 1,000,000*l*., which as yet remained unappropriated. As the intention of Parliament was to grant 1,000,000*l*., and as a part only of that sum had been actually expended, it was assumed that the Legislature might very fairly make up the remainder for the sake of carrying out the original design. But the House and the country he apprehended would be impatient of any proposition for a fresh grant of money for that purpose. It was upon that ground, therefore, more than upon any ground of anticipated loss to the public, that he should oppose the proposition for fixing the sum at 300,000*l*. instead of 260,000*l*. But the main alteration proposed by the right hon. Baronet was, that instead of at once extinguishing all arrears up to the time when that act should come into operation, it should be left optional to the clergymen to accept the sum offered in payment of arrears or not; and the ground upon which the right hon. Baronet suggested the alteration was, that it would be saving a great principle, and paying due regard to the rights of the Church. He thought that that was a delusion. He thought that in making this grant and giving this compensation to the owners of tithes—it being understood that in such cases the arrears of tithes were not to be collected—he thought that by taking that course, they did in fact indemnify those who owed arrears of tithes against any further demand for the payment of them. It might be very true that that intention was not expressed in words, but it was certainly very strongly implied. It must be supposed either that the majority of the clergy would accept this money as a compensation for their arrears, or that they would not accept it. If the majority did not accept it, then the whole benefit and value of the grant would be lost, and all the irritation, discontent, and discord, which existed in Ireland upon the subject of these arrears would continue. If, on the contrary, the majority of the clergy should accept the proffered compensation, then in the majority of cases throughout the whole of the country the payment of arrears of tithes would be forgiven. Consider, then, the situation of the clergyman who had refused the compensation, and who endeavoured, under such a clause as that proposed by the right hon. Baronet, to enforce his right, and collect the arrears due to him. What would the condition of such a clergyman be, and how would he be regarded by the people? Suppose a case. Here was a man to whom there were due 200*l.* for arrears of tithe in 1836 and 1837. The compensation proposed to be given to him would probably amount only to about 50 per cent., that would be 100*l.* It might so happen, that during these two years the maintenance of his family, and other necessary expenses, would have led him to incur debts to the amount of 150*l.* A man in that position might, and perhaps with no great unfairness, and with no great intended harshness on his part, say, "What I owe is 150*l.*, the compensation proposed to be given to me is only 100*l.* I think perhaps, if I were to collect the arrears due to me, I might succeed in obtaining seventy-five per cent., which would just set me clear." That would be a very natural course for a man so situated to adopt; but what would be said of him? Would it not be as natural for his parishioners to say, "Do not expect to obtain your arrears from us. We find that the arrears of all our neighbours have been forgiven, because the clergymen of these parishes have accepted the gratuity of Parliament. Why do not you do the same? At all events, do not expect from us the payment of a tax from which our neighbours have been exempted." Did not every one feel that that was the language which would be held? Therefore, although by the right hon. Baronet's amendment the clergyman might be said to have a choice, yet, in point of fact, he would have no choice at all; because, if the great mass of the clergy should accept the grant, it would hardly be in the power —certainly it would be very invidious, if not dangerous—of any clergyman to reject it, and endeavour to enforce his right by the collection of the arrears due to him. Would it not be better to say, "We will in fact, as well as in words, put an end to these claims," than to leave the matter open to future dispute? Would it not be better to adopt a principle which should be uniform and conclusive in its operation than one which, whilst it gave content and harmony to villages A and B, should plunge C into all the horrors of riot and bloodshed? As he thought that the latter would be the effect of the right hon. Baronet's proposition as compared with that of the Government, he wished the House to consider between the two, and determine which it would adopt. The House would, of course, resolve in favour of that which it deemed best, but for his own part he (Lord John Russell) was very clearly of opinion that, if they were to undertake the matter at all, they ought to do it in such a way as to leave no doubt of the effect of it in settling this question of tithes. The right hon. Baronet, towards the close of his speech, had alluded to this plan as affecting the future welfare of Ireland; and also to some observations which, upon a former occasion, had fallen from his noble Friend (Viscount Howick), and which the right hon. Baronet seemed to consider as indicative of what the future conduct of the Government might be with respect to questions relating to the Established Church in Ireland. He had upon so many occasions stated his opinions with respect to the Church in Ireland, that had it not been for the allusion made by the right hon. Baronet, he should not have thought it necessary to have said anything more upon that subject. But as the right hon. Baronet had so explicitly alluded to the subject, and although he thought it would have been more in accordance with the strongly expressed desire to come to an amicable adjustment of this question, not to have entered upon the topic at all, he would not abstain from stating his general opinions with respect to it. He thought that the proposition made by the Government in 1834 and 1835, that a part of the revenues of the Church in Ireland should be appropriated to the general education of the people, without distinction of religious persuasions, was a very fair, and he thought likely to be a very successful, compromise between the pretensions of different parties in Ireland. That proposition, however, after much discussion, and after being repeatedly rejected, was described by the one party as not giving what they wished with respect to the claims of the Roman Catholics, and by the other party was denounced as tending slowly to the destruction of the Protestant establishment in Ireland. That being the case, and looking at the future condition of the Church in Ireland, while they saw on the one hand, that that Church would be rendered more secure by having its income immediately derived from the owners of the soil, of whom the great majority were Protestants, it was impossible not to see on the other, that there would still remain this great distinction between the established Church in Ireland, and the church establishment of any other country, namely, that the Church establishment of Ireland did not provide for the religious and moral instruction of the great body of the people. It was impossible to hear any bishop or clergyman of the Church of England, either in the pulpit or in political assemblies, defend the established Church of England without at the same time hearing him dilate, and most properly, upon the important advantages derived by the great body of the poorer classes in this country from the Church establishment. It was that of which they of the ecclesiastical body were justly proud; it was that to which they who belonged to the lay body were firmly attached; it was that which gave to the Church established in England the support of the people of England. That consequence did not take place in Ireland; and it was impossible not to see, with the increasing strength and number of the Roman Catholic body, that some reason or other would always be given for the introduction of a change into the ecclesiastical condition of that country. What those changes might be, must depend upon the various views which were entertained by different persons of different political and religious feelings. Those who were in favour of the voluntary principle said, and said naturally, "Let there be no Church establishment in Ireland, Church establishments are indefensible every where, but in Ireland they are peculiarly indefensible. From that principle he need not say he entirely dissented, being strongly in favour of a Church establishment; and being in favour, notwithstanding its anomaly, of a Church establishment in Ireland, seeing not only that it had been founded and protected by the most solemn laws, but seeing, also, that it had established a bond of connection between the two countries. But while he was for maintaining the Church in Ireland, and while he was in favour of the principle of Church establishments generally, he could not but think that, one day or other, before many years had passed, Parliament, unless it were to fall into what he should consider the lamentable error of adopting the voluntary principle, either in Ireland or in any part of the United Kingdom, would come at last to adopt, in some shape or other, the resolution once carried in that House, that the Roman Catholic people of Ireland should have their religious instruction provided by the State. That resolution, if he remembered right, was brought forward by Lord Francis Egerton, and it proposed that a provision should be made by law for the support of the Roman Catholic clergy in Ireland. He believed, however, that if such a proposition were made now, the whole of the Roman Catholic clergy, and a great body of the Roman Catholic laity, would at once reject it. He believed, also, that the members of the Scotch Church would oppose it, that every Protestant dissenter in the Kingdom would be violently against it, and very probably, that a considerable portion of the members of the Church of England would resist it. Therefore, when he gave it as his opinion, that the time would come when the Roman Catholic clergy would be supported by the State, he was giving utterance to an opinion which he confessed he did not think it very prudent for a person, standing in the situation of a Minister of the Crown, to express. But the question having been so mooted and so commented upon, he felt bound to declare, that if he were to speak of what he thought would be the ultimate state of things in Ireland, if Parliament should at length consent to consider this question of tithes with a view to its final settlement—his opinion was, that while the established Church, with a moderated revenue, would not be endangered, still the time would come when the Legislature would think, that the teachers and instructors of several millions of people, forming the great majority of the population of Ireland, ought likewise to be paid and supported by the State. He expressed this opinion not because it was in any way necessary to the present question, but simply because his remaining silent after what had been stated by the right hon. Baronet, might give rise to the supposition that he had changed his sentiments, which was far from being the case. His opinions on this point were not now for the first time made known to the House. But he had felt it necessary to re-state them, lest his silence should be construed into a concurrence in some of the principles advocated on a former evening by his noble Friend near him, with whom he did not concur in those principles. When he spoke of the education of the great body of the people in Ireland, he, of course, included the Presbyterians, whose moral and religious instructors were already paid in part by the State. As to the amendment of the right hon. Gentleman, he must oppose it, from a conviction, that the resolution which he proposed would be productive of much more benefit, looking at the present circumstances of Ireland, than the proposition of the right hon. Baronet.

Viscount *Howick* observed, that the direct allusions contained in the latter part of the right hon. Baronet's speech, rendered it necessary that he should trouble the House with a few words in explanation of the course which he thought it his duty to take on a former evening, and which, upon further consideration, he still felt he could not justly have refrained from pursuing. The right hon. Baronet had expressed his great regret, that in the position which he had the honour to hold, he should have given utterance to opinions which the right hon. Baronet thought would have a tendency to perpetuate and increase the attacks, that might be made upon the established Church in Ireland. He knew well, from long experience, that when any Member of that House expressed his views as being in support of the feelings of a considerable portion of the community who complained of a grievance, he was invariably charged with exciting and fomenting the dissatisfaction and discontent which he proposed to appease. That was the case at the commencement of the American war; that was the case with respect to the Test and Corporation Act; that was the case with respect to Roman Catholic Emancipation; that was the case with respect to Parliamentary reform: in all these cases the parties who advocated the great principles of justice and conciliation had ever been charged by their opponents in that House with creating and exciting the dissatisfaction which, in his belief, they only gave expression to, and which they laboured to remove in the only way in which it could be removed. His firm conviction was, that if a grievance really existed, if it were really felt by a considerable portion of the community, there was no necessity for any person in that House to express an opinion in favour of those who felt the grievance, in order to create dissatisfaction. But, on the other hand, if there were not a substantial grievance, he believed, that the most inflammatory harangue, whether from a minister of the Crown or a member of the House, would pass by like the idle wind. With that firm conviction upon his mind, he did not believe, that any injurious result could arise from what he stated the other day. He was convinced that in the nature of things the question to which he referred was one which must at sometime or other come under the consideration of the House. But if he had wanted any proof of the necessity of his stating in the present position of affairs the opinions which he had long entertained—entertained from the first moment that he ever seriously considered public affairs—if he wanted any proof of the necessity of his pursuing that course, the right hon. Baronet had himself that evening afforded it, because the right hon. Baronet had brought it forward as a charge and as a matter of imputation against those who argued in support of Roman Catholic emancipation, that they never stated when that question was under consideration that these further questions with respect to the Protestant Church establishment must also at no distant day arise and force themselves upon the consideration of the Legislature. He had the honour of having a seat in that House three years before the measure of Catholic emancipation, and as he remained silent upon that occasion he might consider himself included in the general charge of concealing and disguising his views and opinions. He could only state that, being then a very young Member of the House, so strong was his impression that these questions affecting the Protestant Church must subsequently arise, that he was most anxious before the Emancipation Bill was carried, to express his opinion to that effect; but he bowed at that time to the opinion of elder Members, and he now regretted that he did so. He believed, that it was always the best, the most honest, and the safest course in that House, upon all questions of such momentary interest, to state clearly and frankly what one's real opinions were. Having that impression strongly imprinted upon his mind, he believed, that if he allowed the bill now under consideration to go out of the House without stating explicitly what were his opinions with respect to its temporary character, he might hereafter be placed in a position that would expose him to the reproach which the right hon. Baronet had that evening applied to those who formerly advocated Roman Catholic emancipation, of disguising ulterior objects, or else of being obliged to take a course contrary to his views of what justice to the Irish people demanded. That was his explanation of the grounds which induced him to come forward the other evening and express the opinions which he entertained upon the subject. He had little more to add, except that when the right hon. Baronet stated his presumption that the legitimate conclusion of the principles he advocated would necessarily be a transfer of the property of the established Church to the Roman Catholic, the right hon. Baronet entirely mistook what, in his opinion, was the legitimate conclusion from those principles. It was impossible, in his opinion, that the existing state of things could continue. It was impossible that the small minority of Episcopal Protestants should retain long an immense Church establishment for their exclusive benefit. The Presbyterians, comprising, as they did, a large proportion of the wealthier classes in Ireland, had also a right to assistance from the State with respect to religious instruction: and, above all, the great bulk of the people, the poorest and most destitute, those who could hardly procure the necessaries of life, should not be left without assistance in acquiring moral and religious instruction. The present was, in fact, a state of things in his opinion so opposed to the obvious dictates of natural justice that it could not permanently continue. He did not hesitate to say, that he for one regretted that at an earlier period of our history the great mistake was made of altering the character of the Church establishment, before the religion of the people was altered. That was a fatal mistake; but he did not think, that that mistake would now be remedied by a transfer of the property of the Protestant Church to the Roman Catholics. With the opinions just uttered by his noble Friend respecting the payment of the Catholic clergy he perfectly concurred; but he did believe, that hereafter it would be found necessary to pay, if not the Catholic clergy, at all events those lay teachers who should be appointed to communicate moral and religious instruction. He believed that ultimately that course would be absolutely necessary. As he said before, he was perfectly convinced that things could not continue in their present position; but how the change was to be brought about was a question on which he thought it would be highly dangerous at that moment to express an opinion. The right hon. Baronet had asked, "Why not now propose your legitimate conclusion?" He would tell the right hon. Baronet fairly his reason: it was, that no proposal of that kind could now be made with the slightest chance of success; and because he thought that the peace of Ireland and of the empire would be best consulted by having the question postponed as long as the people of Ireland would consent. As he stated on a former evening, the longer the inevitable struggle was deferred the better, in his opinion, for both countries. He believed, that by such postponement the cause of justice would have time to gain ground in both countries, and that many who now took views differing from his, would hereafter be brought to another opinion. He should not now be led any further into the subject; he felt that in stating generally what were the grounds on which he had adopted the conclusions to which he had come he had done all that was necessary to protect him hereafter from any charge of double dealing.

Sir *R. Peel* said, that the noble Lord had mistaken him in supposing that he had alluded to the noble Lord in his observations on the opinion of those who had promoted emancipation. At the time of the Emancipation Act, the noble Lord was, he himself admitted, too young a Member to have his opinion taken into account, and what he (Sir R. Peel) alluded to, was, not the opinions of individual Members, but the public declarations of the chosen champions of the Roman Catholics—of the chief promoters of their cause. He was speaking of Mr. Grattan, who, in the bill he brought in for the arrangement of the Roman Catholic question, included in the preamble the following expression: "Whereas the Protestant religion is the established religion of the State, and is solemnly guaranteed as such by the Act of Settlement, and the Act of Union, and whereas it would tend to the stability of the state if the disabilities under which the Roman Catholics labour were now removed." Here was no disguising of opinion. No one could be justified in accusing Mr. Grattan of an intention to diminish the securities of the Protestant Church, or of interfering with its property. No; on the contrary, his declaration was, that at the time of the passing of the bill they had the most distinct and positive assurances, from the most eminent authorities, that in their opinion the restoration of civil equality was perfectly compatible with the maintenance of the Established Church. He was alluding to Mr. Canning, to Lord Plunket, who told them the Established Church was the essential bond between the countries, and that he would throw Catholic emancipation to the winds if he thought that one of its indirect results would be, to injure the establishment. He was speaking of Lord Castlereagh—of all who had not disguised their opinions, but had given the most solemn assurances that, by the removal of the disabilities, they were only taking fresh security for the Church. So much for that part of the question. With respect to any opinion which the noble Lord might choose to express or maintain, as an individual Member, he (Sir R. Peel) was not disposed to quarrel; but he had objected to the noble Lord's speech, as being the speech of a Minister of the Crown. That was what made it absolutely necessary for him to be equally explicit as to his views of the arrangements now making, and the light in which they ought to be taken. The noble Lord must admit that the declaration of the noble Lord, the Secretary for the Home Department, namely, that while he did not concur in his views, yet that the noble Lord equally dissented from those of the noble Lord (Viscount Howick), was in itself sufficient demonstration how absolutely necessary it was, to make those remarks, and to draw from the noble Lord such a declaration. The noble Lord (Viscount Howick) contended that it was perfectly right and absolutely necessary for all persons, at all times, to express their opinions, and yet he proved, in the course of his speech, that his rule might sometimes be infringed on, and that in all cases it was not appropriate for a Minister of the Crown to be so frank. The noble Lord said, that he had made up his mind as to the future fate of the Irish Church, and yet they had it, on the noble Lord's authority, that it would at present be highly dangerous to express any opinion on the subject. It appeared then that there might be occasions on which the expression of opinion ought to be dispensed with. The noble Lord had also said, that the longer the people of Ireland could be persuaded to acquiesce in the present establishment, the greater would be the harmony of the empire. His fear was, that the speech they had heard from the noble Lord the other night, would disturb that harmony. He did feel, that when a Minister of the Crown gave his opinion that the establishment was overpaid, that any settlement they could now make, would not be permanent, and that it ought not to be permanent—he did feel, that such a declaration, coming from a Minister of the Crown, would materially interfere with the object the House had in view, namely, that the people of Ireland should acquiesce in the present settlement, and in the attempt now making to give to that country some prospect of order and tranquillity.

Viscount *Howick* put it to the right hon. Baronet and to the House whether the right hon. Baronet had alluded fairly to what he said the other evening. In the first place in saying that there was a wide difference between his opinion, and that of his noble Friend (Lord J. Russell) the right hon. Baronet was greatly mistaken. He (Viscount Howick) thought that when the two opinions came to be closely scrutinized, there would not appear any such very wide difference between them. He was certain that in all the main principles which affected this great question there was the most perfect agreement between his noble Friend and himself. The House had heard his noble Friend state his opinions, and he (Viscount Howick), without going into any lengthened explanation, must say, that to no part of that statement he entertained the slightest objection? The right hon. Baronet had also accused him (Viscount Howick) of saying, that men should at all times state their opinions, and of afterwards departing from that rule. In so stating, the right hon. Baronet had not repeated correctly what fell from him on those points. He said, in the first place, with regard to opinions, that it was the safest and best policy on questions of great importance not to conceal or keep back views on which it afterwards might prove necessary to act. This was the substance of what he said; and he never meant to put forth so absurd an opinion as that it was necessary for every individual Member to trouble the House with a statement of all his views and opinions. Then the right hon. Baronet had accused him of saying, that it was sometimes dangerous to express an opinion; what he said was, that now it would be dangerous to enter into any explanation of political opinions, as it would be impossible to carry any measure founded on them through the House. With regard to what the right hon. Baronet had said of the reasons which he gave for expressing his opinion, that right hon. Gentleman must be aware that Members who did not express their dissent, were often considered as subscribing to the whole of the opinions of those with whom they voted. This had occurred in the passing of emancipation. He trusted he had now explained all these points to the satisfaction of the right hon. Baronet and the House.

Sir *R. Peel* said, that there was only one point on which he would trouble the House. He had no wish to magnify the differences between the two noble Lords, nor was his inference drawn from their conflicting arguments, but never was he more mistaken if he did not hear the noble Secretary for the Home Department say, that "he could not concur in his (Sir R. Peel's) opinions, but that neither could he subscribe to those of his noble Friend." This was no inference drawn from conflicting sentiments, but from words actually heard.

Mr. *Clay* said, that if he were to choose between the plan of the noble Lord and that of the right hon. Baronet he should certainly prefer the former, because, while he thought, that whatever was objectionable in principle was equally applicable to both, inasmuch as both involved a grant of public money, still, as the plan of the noble Lord compelled the tithe-owner to take the money, and that of the right hon. Baronet left a door open for resistance, the former should have his support. The plan of the noble Lord went to the purchase of peace, while that of the right hon. Baronet involved a sacrifice of public money, without appeasing the dissentions by which Ireland was now troubled. He wished the public clearly to understand the monstrous nature of the proposition which this grant implied. It was no less than this—that we gave indemnity, by a grant of public money, to certain subjects of the Crown of England, against whom there were legal claims to a large amount. This indemnity was against debts fairly due, but which they could not recover, from fraudulent debtors, and which the Ministers of the Crown also declared their inability to recover. The main difficulty in collecting tithes in Ireland arose from a want of firmness in collecting them, and not from the expense of collection. The expense of the collection would not be twenty-five per cent., or fifteen per cent., or even ten per cent. The right hon. Baronet opposite (Sir R. Peel) had taunted the noble Lord, the Secretary of State for the Home Department, and those who acted with him, with not having followed up the law. He would charge the right hon. Baronet with acting in a spirit that was much more to be condemned; for, in spite of all that the right hon. Baronet and his friends might assert, he (Mr. Clay) firmly believed, that there was in the mind of the right hon. Baronet and of his friends a deep-seated consciousness of wrong in keeping up the present Church establishment in Ireland. In his opinion there never was a wrong offered to any people so great as that of maintaining, by the superior force of England, the Irish Church as at present constituted. It was so great a wrong that, in his opinion, it justified resistance on the part of the Irish people. If, indeed, he could perceive any attempt made, in respect to this question, to conciliate the people of Ireland, by rendering the Irish Church a national Church, there was no sum, however large, that might be asked for to obtain that object which he should not be willing to grant. But no attempt of that kind was made. What was it that rendered it necessary for the Government now to call upon the House to indemnify the clergy of that Church for the loss of their revenue? It was the smarting sense of injustice that the people of Ireland felt with regard to that establishment. The effect of the policy now proposed to be pursued would be to teach the people of Ireland resistance to the law, and not to respect the rights of property. He wished the noble Lord to withdraw his proposition, which would not be satisfactory to the people of England, who were becoming more and more alive to the subject, and who viewed with more and more disgust the subsidising of the Irish Church.

Lord *Stanley* had not any intention of entering upon the wide field of discussion to which he had been invited by the noble Lord (Viscount Howick), or by the hon. Member for the Tower Hamlets; he would not discuss the future prospects, or the views, or policy, affecting the maintenance or extinction of the Protestant Church in Ireland. His noble Friend who had caused such a discussion was the last person whom he (Lord Stanley) could accuse of wilfully concealing his opinions. He did not think, that this charge could be advanced against the noble Lord; but it was not necessary, after what had passed in that House to discuss, not the frankness, but the prudence of the declaration of his noble Friend. If, however, he did pass by the prudence or the imprudence of that declaration, he rejoiced that the experience of the last four years had taught his noble Friend, the Secretary of State for the Home Department, the imprudence of manifesting any difference of opinion which might exist in the Cabinet; but it was surprising, with the views which the noble Lord, the Secretary at War, now entertained, that he could have supported the Appropriation Clause. The noble Lord (Lord John Russell) did consider the appropriation principle as a fair and honourable compromise: but if his noble Friend, the Secretary of State, thought, that this was a fair and reasonable compromise, he knew that there was even at that time in the Cabinet itself one who thought that it neither could nor would be satisfactory to the country. [Viscount *Howick* did think that it would have been satisfactory.] He was not surprised at the noble Lord's change; he was surprised at what he had communicated to the House, that he did not entertain any sanguine hopes of the success of that principle. But he would pass by this. It was satisfactory to him to see the doctrine universally recognised, and to see it admitted by the noble Lord at the head of the Home Department, that the Appropriation Clause was abandoned; that whilst it violated the principles contended for by one party it was not accepted by the others. The Appropriation Clause, and he thanked God for it, was now given up by the Secretary of State, and was condemned both on the one side and on the other. What a justification to those who had all along opposed it was the admission of his noble Friend. He would not, however, enter upon this part of the case; he would only discuss calmly and dispassionately the proposition of the noble Lord opposite, and the proposition of his right hon. Friend near him. A satisfactory settlement was the only question on which they were at issue; they had not to discuss what tithes ought to be levied, or how they were to be apportioned, or whether they were to have an established Church; whether the tithes were to be commuted to a rent-charge, or or what that rent-charge should be; whether the tithes were or were not to be appropriated in one way or another; or whether, in consideration of the increased burden placed on the landlords, with which they were not now saddled, an allowance should be made to them. That was not now the question; but what they were to do to perfect the measure now before him—how they were to get rid of the difficulty occasioned by the arrears of tithes now due to the clergy. He (Lord Stanley) had listened with surprise to the speech of the hon. Member who had just sat down, and to the manner in which that speech had brought him to vote. The hon. Gentleman had thought it convenient to taunt them with the gross injustice of giving up anything to the land-owners, lay or clerical; he had charged those who differed from him with want of firmness and pusillanimity, with not enforcing the legal claims, and with not pressing their demands for the debts which were due. "Would they," said the hon. Member, "in any English case have permitted such an injustice? No, not if there had been ten Rathcormacs instead of one, would they have prevented the enforcing of a legal claim of this kind in England." But did the hon. Member think the course which he had recommended could be justified? Would he stand up and say, that no alteration in the system of Irish tithes should be made, that the landlord should not be charged, that the tenant should still be bound to pay; that no military expense at whatever loss or suffering, and that no increase of ill will should prevent the enforcement of a non-disputed claim—of what was not disputed to be due on the one hand, and which would not be paid on the other? The hon. Member had argued for the enforcement of the legal debt; but to what conclusion had he come? To give no grant of the public money, and yet to vote for the proposition of the noble Lord and against the proposition of his right hon. Friend, and thus, without endeavouring to collect any which remained due, he would extinguish all arrears of tithes. The hon. Gentleman was for a bold assertion of the law; he would not shrink from his opinion though ten Rathcormacs should stare him in the face; he would wade through streams of blood; and yet to what a conclusion had he come after upholding the weighty claims of justice, and wishing to vote against any grant? Why, to abandon altogether, and unconditionally, all claims, to forget all that had been done, and thus to signalize his zeal for impartial justice. That was the conclusion of the man who, in his speech, was for enforcing the law, and upholding the rigid demands of justice; and till he had heard it, he did not believe, that any man would have proposed to take away the legal claim of the clergy to the debt, without giving any compensation whatever. He was happy, however, that this was not a question which Parliament was called upon to consider. He hoped, that the hon. Member represented the sentiments of only a small portion of the Members either on the one side or the other; and he trusted, that they were prepared to consider what was the best mode by which they could honourably, justly, and equitably, settle the arrears which were now due. The difference between the noble Lord opposite and his right hon. Friend near him was this, that the noble Lord would extinguish all claim to the arrears of tithes, although he would at the same time grant 260,000*l.* or 300,000*l.*, an indefinite sum; whilst his right hon. Friend said, that whilst he would grant 300,000*l.*, which was not an equivalent for the amount due, it was but just to keep alive the demand for the arrears of tithes; he would not extinguish them, he would not enact, that they should not be collected, but he would offer that amount as a fair, and liberal, and equitable compromise, to induce the tithe-owners to forego their demands. This was the only question between his right hon. Friend near him and the Government. Moreover, he would not abandon the claim, but if the hon. Gentleman wished to place the question on the low principles of money, his right hon. Friend proposed to grant the 300,000*l.* not to extinguish the tithes, but that such persons as chose to accept the compromise might transfer their claims to the Government, leaving the executive Government to press for the repayment, when and in what cases it might think fit, and to recover the amount for the people of England and the people of Scotland. Now, which plan was nearest to the views of the hon. Gentleman, which would best keep alive the debt, which was nearest the non-extinguishment of a just debt? Which would abandon the entire liability, which would give every encouragement to the resistance of the law? the proposition of his right hon. Friend or that of the noble Lord, for which the hon. Gentleman was about to vote that night. Which would give the fairest equivalent to the tithe-owner? The noble Lord proposed to give an indefinite sum, he did not know the amount, and in return, he proposed, that the tithe-owner should abandon the whole amount of his claim, the aggregate of which the noble Lord was not aware of. He would give the amount absolutely; he neither knew the amount that would be demanded, nor that which could be afforded; it all depended on the amount which the Government should recover of the original debt. That was the proposal of the Government. But whilst his right hon. Friend said, that he would grant the same amount, he held the sum was not a full equivalent; he acknowledged, that a larger debt was due; but if the tithe-owners would hand over their claims, they would enable him to grant an amount in return, which ought to be, and which he thought, would be, satisfactory, considering the trouble and difficulty which the tithe owners would have in collecting the arrears. The amount would be paid by the State, and if they handed over their claims, well and good; if not, the law was open to them, and they would have every assistance on the part of the Government to enforce it. That was the proposition of his right hon. Friend; and would the hon. Gentleman say, that there was most justice in that of the noble Lord, or of his right hon. Friend? The noble Lord had abandoned, forced by the arguments of his right hon. Friend—the noble Lord had told them, that he abandoned the limitation to the last two years' loan. [Lord *J. Russell* remarked, that he said that he was indifferent about it.] But it was not a matter of indifference. It was not the same thing, as if the amount were in all cases alike; it was not that what was 50 per cent. for three years would be 75 per cent. for two years—it was not the case of persons who had received the tithes in the years 1835 and 1836, and had not received any in 1837, whilst others had not received them in 1834 and 1835, though they had got them in 1836 and 1837, but it was calling upon some to forego the arrears due to them in 1834 and 1835, because some others had received them in those years. A matter of indifference! Why, the largest views of general justice which he had ever heard put forward by the Government, or by any Member of Parliament, had been advanced by the right hon. Gentleman—the strangest notions of justice had been advanced by the hon. Gentleman, the Member for the Tower Hamlets; but the strangest indifference had also been shown by the Government as to what they (the Opposition) considered to be the principles of justice. Differing, however, from the arguments of the noble Lord, he was willing to come to the same conclusion, and he was ready to take the arrears of tithes of 1834, 1835, 1836, and 1837. He would not enter upon the question as to the deficiency of the sum of 300,000*l.*, or of the definite sum of 260,000*l.*, added to an indefinite amount which the noble Lord thought he could recover. That was not the condition on which his right hon. Friend had proposed his amendment. He would, however, deal with the 260,000*l.* and the amount to be recovered. The noble Lord said, that they would be giving no option to the clergyman. The noble Lord did not object to give the option, forced by the arguments of his right hon. Friend. The noble Lord thought, that it would be most just; he was compelled to admit, that they ought to give the option where they took the property; but then the noble Lord said, that the option could not really be exercised, because it would be invidious on the part of a clergyman, when his parishioners saw others take the grant, not to accept the amount, but to proceed for his arrear of tithes. Now, he did not deny the injustice of the option—he did not deny the extent of the inconvenience. It would, and it ought, to weigh deeply in the minds of the proprietors, both lay and clerical, and it would induce them to accept the instalment. But, at the same time, the moral force of these considerations was a very different thing from giving the tithe-owner no option, from forcing him to accept the instalment; if they gave the tithe-owner a fair option, he would know well the inconvenience of his position, and he would know that though he would have a right to adhere to his claims, and to insist upon the full amount due to him, yet that he would better consult the peace of the country, and at the same time advance his own interest, by accepting the smaller amount. There was the widest possible difference therefore between the two modes of proceeding, not, perhaps, in the effect produced, or in the amount of composition which they would ultimately be called upon to pay, but as to the principles on which they ought to legislate. The noble Lord would say, when the law was the same, what did it matter about the means? but he (Lord Stanley) would say, that there was the greatest difference whether they legislated as the noble Lord proposed, or on the immutable laws of justice. In spite of all that had been said, and all that might be said, about the expenditure of 27,000*l.* to recover 12,000*l.*, which he had heard twenty times repeated in that House, he did not regret, that he had incurred that expense; and when he recollected the considerations which, though he could not state their purport, then marked the deliberations of the Government, he would say, that if it had not been for unfortunate circumstances, over which he had no control, that expense would have had the effect of securing not only the 12,000*l.*, but also a large proportion of the amount which was due. He did not, therefore, repent the course which he had adopted; but he would regret, if he had indiscriminately abstained from the enforcement of the law, when it could be enforced without leading to pecuniary hardship, and without difficulty. He had stated the grounds on which he preferred the plan proposed by his right hon. Friend, because of the justice of the principle, and as equally tending with the plan of the noble Lord to an effectual and decisive settlement. The noble Lord had, indeed, said, that his own scheme was effectual and decisive; and so it would have been if he put an end to arrears without compensation; but the question was, whether it was equally just. If the plan of the hon. Gentleman who would that night vote against his speech were adopted, it would be effectual and decisive; but it contained that superlative degree of injustice to which the Government had not yet worked up their minds: Government took the intermediate course, they would not abolish the legal claims without compensation; whilst they (the Opposition) proposed that which would perpetrate no injustice, they made a sound proposition, founded on strict justice, they kept alive the arrears, they transferred them to the executive Government, from all parties, high and low, rich and poor, solvent and insolvent, that wherever it was able the law might be rendered effectual, as it had already been in several distinguished instances. They proposed to keep alive the tithes, and, at the same time, to offer a fair and liberal and equitable compromise to the titheowners, a compromise, which, for their own interest as well as by their regard for the peace of Ireland, they would accept; a compromise which would be satisfactory to the parties who were entitled to the arrears of tithes, without violating the principles of law, without infringing the rights of property, and without receding from what the titheowners felt to be their undisputed claims.

Mr. *W. S. O'Brien* said, that he would discuss on their own merits the two propositions before the House, one of which declared the total abandonment of the whole arrear of the tithes, and the other, that the present arrears should be vested in the Government, to be collected, if thought necessary, but that in the meantime there should be an inquiry as to their amount. He owned that his own impression was, that there was a large amount of tithe arrears in Ireland. He conceived, that a small portion only of the tithes of 1837, especially in the south of Ireland, had been paid; in fact, on the part of the occupiers in vast tracts none at all had been paid, and it was not too much, therefore, to estimate that one-half of the last year's tithes due from the occupiers remained unpaid. This would amount to 300,000*l.*, and with the arrears of former years he thought that between 700,000*l.* and 800,000*l.* were, probably, now due from the titheowners, and without proving the amount, the noble Lord called upon them to abandon their claims for a consideration of 260,000*l.* Now, he (Mr. O'Brien) for one, would prefer to know the amount before he voted for giving up the claim; and he thought, also, that they ought to determine what classes should come within the principle of remission. He was of opinion, therefore, that the principle of part of the right hon. Baronet's amendment ought to be adopted by the House. As to the million loan, however, it should be absolutely remitted: that was the rule adopted in the Act of 1835, and also in the Act of 1836; and now they seemed to wish to recognise arrears which were not thought of before. He would limit any remission to the Catholic tithepayers, and he thought, that the House would but be doing justice by applying half a million to their relief, but he would not extend the vote further; and for these reasons he had some difficulty in supporting the abandonment of the whole arrears now due.

Mr. *Redington* objected as well to the plan proposed by the right hon. Baronet opposite, as to that which the Government desired should be adopted. With regard to the proposition of the right hon. Baronet, he was convinced that it would not secure that peace for which the people of England had paid; and although he looked at both propositions as being of a nature not at all calculated to secure the desired object, yet he would choose the lesser evil, and give his support to that made by the Government. He took this opportunity of guarding himself against using any expression which might indicate that he would be satisfied by either of the plans suggested; and should this measure become the law of the land, he did not at all consider that his position as to hostility to tithes in Ireland would be altered, but, as a landlord, he should still oppose their continuance.

The *Chancellor of the Exchequer* was glad to have this opportunity of saying a few words on the subject of the suggestion which he had himself formerly made, and on which a discussion had arisen, but which many who had taken a part in the debate this evening and on former occasions appeared to have forgotten. Undoubtedly, the first proposition of the Government was not that which was now before the House. The plan which was first thrown out for consideration was, on the one hand, the extinction of the debt of 640,000*l.*, the collection of such part of the instalments due as could be levied, the application of those sums for the benefit of the Church, but no further sacrifice on the part of the people of this country; and, as an equivalent, it was proposed the occupiers of the Church should give up, not the amount of arrears due, but that proportion of them which was due from the occupying tenant; and whatever arrangement was made, it would be incomplete if if it did not go to the extinction of arrears due from the occupying tenant. It had been said, by the noble Lord opposite that there were cases in which the occupying tenant was a person from whom the arrears might be recovered, but he would venture to assert, that such cases were only as one in ten thousand. The House must decide on the balance of evidence on the general question, and it could be shown, that the great proportion of the amount due from the occupiers of the soil was not due from the rich or the solvent, but on the contrary, from the poor and needy. An observation had been made by the noble Lord on what had fallen from the noble Lord the Secretary of State for the Home Department as to its being a question of indifference whether the prior arrears were comprehended or not in the provisions of this bill, and he did not think that the noble Lord had acted quite fairly in his mode of considering that observation. Did any one believe, that this amount of arrears was likely to be recovered at all? Was it thought probable? And did the right hon. Gentleman opposite in the fifty letters which he stated he had received upon the subject hear that there was any remote possibility of recovering the arrears due from the occupying tenants? The evidence which might be adduced he was sure would convince the House to the contrary. If they were capable of being recovered, how was it that they were allowed to remain out-standing? Why were they not recovered? They would have been sued for if there was a probability of their being paid, but it was known that the probability was so remote that it was thought useless to proceed for them. Were these cases in which it was likely that the arrears could be recovered more easily, because they were a long time due? Did arrears in Ireland improve by keeping? He could not appeal to the noble Lord himself for his testimony upon the subject as an Irish landlord, because he believed that his property was managed in such a manner as to do him the highest honour; but he asked any landlord in the House whether, if any arrears were due to him which had been outstanding five or six years, he would entertain the most remote hope that he would be able to recover them, and whether, if he wished his estate to be well managed, it was not the first thing he would do to forgive them? He was confident that such would be the case, and therefore the true principle was, to abandon that which they had no chance of procuring. In respect of the arrears subsequently due, he again said, with or without an equivalent, they were asked to abandon the arrears due from the occupying tenant; but what would become of the whole bill, if they were compelled to adhere to the optional principle—if the doctrine were laid down, that the whole bill, from first to last, was a violation of the laws of property? What right had they to force any landlord to take on himself the payment of tithes; and what right had they to force a rent-charge on the clergy, without making it optional with them too? The whole bill, however, was on a principle of compromise, and the Legislature stepped in between the contesting parties, and acted as an umpire between them, and decided what one party should yield, and what the other should accede; and on that principle, and that only, should they act with respect to these arrears. If they were justified in adopting the compromise, it was the more essential that they should decide in respect of these arrears, on the same principle, because they ran the risk of endangering the whole bill if they allowed this question to remain unsettled. On what principle was the bill founded? It was, that they could not, with safety to the public, collect the tithes from the occupiers of the soil in Ireland. If they could justly and legitimately collect the tithes from the landlord, then let them apply what they could collect in payment of the arrears due; let them not sacrifice any part of them which was due from the landlord, but he asked them in common sense to relieve the occupiers from them. The right hon. Gentleman had said, that he had received letters from Ireland, in which a great number of the clergy had expressed their disinclination to accede to the proposition which had been made in their behalf. He certainly was not surprised at this. When, although the Government were compelled to defend the principles of economy, and to guard the public purse with the greatest care, the hon. Gentleman who represented Cambridge jointly with himself, came forward and said, that they should not only give up the 260,000*l.*, but that they should give more; he repeated, that he was not at all surprised that the clergy should demand a much larger sacrifice than that which was proposed. These arrears were utterly and completely irrecoverable; but let them attempt to procure their payment, and they would incur such immense expense in point of litigation as would induce them not to repeat such a course, and as would convince them of the absurdity of such a proceeding; and if they should proceed ever so far, he was convinced that they were likely to recover only so much as would amount to the *maximum* sum which he had himself proposed, and he was sure that that would prove no more than an equivalent. Then it was proposed, that the arrears should vest in the Government, and that they should exercise a power—an arbitrary power—as to whether they should enforce them or whether they should remit in certain instances. But in the final settlement of the question, this was not a power which should be placed in the hands of the Government; and it was likely to produce most uncertain results when the question was to be finally determined. He protested against any such authority being imposed upon the Government; let the House vote the whole money if they would, but he would not undertake the task or responsibility of recovering back one single farthing of the arrears due from the occupying tenant, whatever course this bill might take. With respect to the recovering against the landlords, it was a totally distinct question, and they ought to be made to pay; and he would, therefore, proceed against them for the whole amount due under the Million Act. He was pleading for the relief of the occupying tenant, and when he made his proposition, he asked only for the peace of the country; and because, if peace were given, he should be able to go to his constituents, and to the people of England, and say, "If you have made a sacrifice, you have obtained what is an equivalent, relief to the occupying tenant as regards the entire amount of tithes to which he was liable." If, however, the proposition of the right hon. Baronet were adopted, these considerations would be abandoned, and all the benefits which would otherwise be conferred, would be left in doubt, and not only would all the mischiefs which he had already stated, be increased, but they would produce a permanent cause of hostility between the Government and the occupying tenants, which might produce the greatest danger to the peace and repose of Ireland.

Mr. *O'Connell* said, that before the House went to a division on this subject he wished to say a few words on the present position of the question. While on the other side of the House it was talked of applying the whole of the money, he would ask whether it was just that it should be applied at all? They voted that the money which had been illegally withheld should be paid; but the people of Ireland determined not to pay it, and then they voted this money in order to exonerate them. Therefore, when the noble Lord opposite came forward and talked of the comparison of justice, he totally forgot the previous question. The money was not voted on the ground of justice, but on the ground of state policy, which was superior to the ordinary rules of justice between man and man, and for the purpose of obtaining peace and quiet. It was in fact a sort of proposition for peace and quiet. Now, what was proposed on the other side? Why, not to extinguish these arrears. They could get quiet, but for the arrears, and they would not extinguish them. He could not suppose that they would permit such a law to come into operation, for he could not imagine that any person could go bidding from one clergyman to another to ask if he would take ten shillings or fifteen shillings in composition. If they did not provide for the extinction of the demand for arrears let them not give it at all. But what was the policy of the noble Lord? Did he expect the clergy would accept the money? If they accepted it there was no harm in extinguishing the arrears altogether, but if they did not, was it supposed that the people would have any greater respect for them in consequence? The clergymen would be placed in a most invidious position. Some would accept it and some would not, and contentions would in consequence spring up, and would be carried on between them. It was an idle scheme, and the Government ought not to accede to it; and if the House were disposed to adopt the plan of the right hon. Baronet, he would rather advise, that they should not release one farthing of the 640,000*l.*, but go on with their rent-charges of seventy-five per cent., and take their chance of doing some good by these means; but he said, "Do not sacrifice the money of the people of England in a scheme which cannot succeed." The only chance they had of succeeding was to adopt the plan proposed by the Government. He did not think that went far enough, but still it was better than the other; for if the proposition of the noble Lord were to be adopted, the humane and generous clergymen would be compelled to pay back that property which they had received from this country, but which they had expended on their own poor. If, however, they still refused to accept the proposition of the Government, they would not only inflict this injustice, but they would remove all hope of peace and quiet by leaving the matter open. These were the grounds on which he proposed to oppose the amendment of the right hon. Baronet, and to support the proposition of the Government. The noble Lord had said much of the injury done by extinguishing claims of any sort; but the noble Lord was himself the first person who had extinguished a claim of this sort. He had himself sacrificed 27,000*l.* for the sake of endeavouring to recover 12,000*l.*, but he had had some secret reason for doing this which he would never disclose. Any plan, however, such as either of those now proposed could not have the desired effect. They could not succeed in the nature of things. The great evil was, that the eight millions had to sustain the expense of the 800,000, and they never could hope to succeed until they had altered that system. The occupiers of lands were now no longer to be looked for to pay tithes or to have tithes recovered from them. He told them, that they need never expect it even if they should continue tithes. They never could pay them, for even the Protestant landlords had joined with the Catholics to oppose them. Not all the Protestants certainly, for he did not mean to include the hon. and gallant Member opposite, nor the right hon. Gentleman who was sitting by his side (Mr. Lefroy), but nearly all of them, and the number of Protestant landlords who joined them increased daily. Among all the towns there was not one meeting which was not presided over by a Protestant gentleman of the county, and in which resolutions were not moved by Protestant gentlemen. If they continued the system of the clergyman coming down for his tithes, and another individual claiming his arrears, there was not the least chance of making a settlement of this question, or even an adjournment of it, and he was one of those who thought that an adjournment would be useful, and he agreed much in the very statesmanlike view the noble Lord the Secretary at War, had taken upon the subject. Things could not last. It was not in their nature. Let them do what they could, and all they could purchase would be a tranquillity which would enable them to secure for the clergy who had devoted their youth to their education, and had abandoned all other professions, the full enjoyment of the incomes arising from their living, while any other sums which might be derived would be applicable to the purposes of national education. It was to that they must come at last. He thought it to be his duty to vote against the amendment which had been introduced, and to vote for the original proposition, which, although it did not go so far as it ought, in his opinion, yet held out a better and more favourable prospect.

Mr. *Shiel* did not mean to enter on the whole merits of the case, but to address himself to one point in the plan of the right hon. Baronet. With the greatest respect he begged to suggest a difficulty in that plan which he did not see how the right hon. Baronet could get over. What did the right hon. Baronet intend to do in regard to executors? Would executors have the power to accept the 50 per cent, proposed if left without the protection of an Act of Parliament? He (Mr. Shiel) thought they would not. [Sir *R. Peel*, they would have the power to consent to the proposition.] The right hon Baronet had said that executors would have the power to consent to the proposition. But he thought they would not, unless, indeed they had the sanction of the Court of Chancery or the Court of Exchequer for every case of acceptance. In every instance in which a clergyman died leaving property of the nature of tithes in trust, the executors would have no power to accept less than the sum so demised, and no discretion left them in the matter, but would be compelled to enforce it. A clergyman might personally indulge his own feelings, and remit whatever he thought proper, but an executor could not —he was bound by the law to collect the tithes. He should therefore submit to the right hon. Baronet, that this circumstance presented an insurmountable obstacle to the adoption of his plan. But was the previous conduct of the right hon. Baronet consistent with the course he now pursued? The House would be enabled to judge from the facts. When in 1835 the right hon. Baronet brought forward his plan for the settlement of tithes proposed by the right hon. and gallant Member for Launceston, did he make the collection of the arrears an element in it? He did not. Yet what did he do now? Now that he was out of office he suggested to those that were in, a different course from that which he had himself pursued when in possession of power. Now that he had power no longer he urged upon the Whig Government the adoption of a plan which he withheld himself when he had the means of carrying it, and which he well knew would at once bring them into direct collision with the people of Ireland. He would submit it to the right hon. Baronet's own candour and good sense, and to the candour and discretion of those hon. Gentlemen who surrounded him, whether it was not a most extraordinary circumstance —and the more extraordinary still for being as yet unexplained—that the right hon. Baronet should bring forward a plan in respect to the tithe question in 1838 which he altogether disregarded in 1835. The plan of the Government did not essentially differ from the plan of the right hon. Baronet in 1835. It was founded on the pre-supposition that Ireland was injured by the collection of tithe from the occupying tenant of the land. That was quite in conformity with the principles of the right hon. Baronet's plan. Why did he, then, propose another, the effect of which could only be to mar the good that might be derivable from it? Why it was, that the right hon. Baronet did so he could best tell. But then there was the noble Lord the Member for North Lancashire, also to support the right hon. Baronet. The noble Lord had stated that he was not sorry for the course he had adopted respecting the recovery of arrears of tithe in Ireland, when in power: he said that he had strained all the machinery of the law—and he made it a matter of self-gratulation to raise the money advanced by the State. But he would take leave to ask the noble Lord, were the consequence of his efforts not greatly injurious to Ireland, without producing at the same time the effects he intended? Although the noble Lord had not the merit of repentance, Ireland was still doing penance for his sins. That part of the noble Lord's plan most signally failed, for there were 27,000*l*., expended in raising 12,000*l*. from the occupying tenants. And though the noble Lord admitted, that he had used all the machinery of the law, and strained every point "which was permitted—that he had used artillery and baggage-waggons" for removing the cattle distrained for tithes, and employed the military all over the country, he was also obliged to confess that the power of the people was too strong for him, and that all the means at his disposal were as nought before it. Was it fair, then, for the noble Lord, with his own failure admitted by himself, to call on the Government to play the same part in the same drama now? He did not mean to say that the present tithe measure would succeed in Ireland—he had never offered even a prediction to that effect; the hon. Gentlemen opposite did; they asserted that the country would be tranquillized if the payment of that impost were placed on the landlords. What did they do to advance it? If the plan proposed by the right hon. Baronet were adopted, they were not to look for peace in Ireland; if the arrears of tithe were to be collected at the option of individuals, there was no possible ground to hope for tranquillity in that country. The Government proposed to discharge the occupying tenants—that, according to the expressed assertion of hon. Gentlemen opposite, was the main promovent of peace for Ireland; yet what course did they suggest? To give the clergy a power of negativing that project, and to leave to individual caprice, and individual passion, the peace of the country. That was one of his strong objections to the plan of the right hon. Baronet. On another part of the case he did not think the objections taken by the right hon. Baronet to the speech—the remarkable speech—of the noble Lord the Secretary at War—for which he sincerely thanked the noble Lord—he did not think they were quite appropriate. The right hon. Baronet had said in the early part of the debate that he heard the speech of the noble Lord with regret. Why did not the right hon. Baronet reply to it? If the right hon. Baronet were not present, the noble Lord the Member for North Lancashire, who reflected his opinions—his *fidus Achates*—was. At least the *Pylades* and *Orestes* of the party, the noble Lord and the right hon. Baronet, the Member for Pembrokshire, were there to reply to it. [Lord *Stanley*: To a speech made three days ago.] That fact was important, inasmuch as it showed the necessity of replying at once. However, what struck him in that speech was, the circumstance that the noble Lord approved of the appropriation principle in 1835, though he did not believe in its efficacy as a remedy now. If the proposal of that principle was accepted on its first introduction, a great good might have been done in Ireland, and much of the evil which fell on the heads of those who opposed it, if not all, might have been averted. He did not perceive any difference whatever between the speech of the noble Lord the Secretary for the Home Department and the noble Lord the Secretary at War. He had read them both: he knew their political history well—and he was quite at a loss to discover any essential difference—any difference in point of principle—between them. As an observer in that House, he could not detect a single syllable uttered by either which gave countenance to the belief, that the great principle of appropriation was abandoned. It was the interest of hon. Gentlemen on the other side of the House to sow dissension in the Cabinet—but in that he trusted they would fail. He was sure they would fail. When he found the House affirming the resolution of the right hon. Baronet in 1835 he cared little for any attempt on the other side to sow dissensions; but if the Government gave up the appropriation principle he would unhesitatingly say, that they abandoned altogether their claims to public respect. The right hon. Baronet the Member for Tamworth had declared, that he wanted reform in the Church in Ireland, the abolition of sinecures, and the allocation of every clergyman to a proper place. If the right hon. Baronet's wishes were to be granted, if these questions were to be entertained, how could the adoption of the appropriation principle be avoided. Was the Government bound for the next Session by what took place in the present Session? Were they precluded by the omission of that principle now, from bringing it forward again? He believed not; he hoped they felt so, he trusted they would, and he should give them his support accordingly.

Sir *R. Peel* rose merely to address himself to the only two points urged by the hon. and learned Member against his proposition. Nothing gratified him more than the fact that after all the cogitation of the hon. and learned Gentleman, he could adduce no greater difficulty to urge against it than that relating to the duties of executors. The plain answer he should give to this objection was, to state that by the ordinary operation of the law as it stands executors had the power to accept the best terms offered them. But even if it were not so, and that the difficulty urged by the hon. Gentleman really existed,what could be easier than to introduce a clause in the bill by which it would be surmounted? How the hon. Gentleman could, therefore, strain at a gnat and swallow a camel—stick at that difficulty and find no difficulty at all in obliging the executors to abandon all claim for their trusts—he might fancy but could not say. So much for the hon. Gentleman's first objection. He would now come to the second. The hon. Gentleman had said that in 1835 he proposed a certain sum in lieu of the arrears of tithes, and so far the hon. Gentleman was right. He (Sir R. Peel) had at that time a balance of 360,000*l.* at his disposal, and he had proposed it as a compensation for one year's arrears of tithes. Four years arrears were, however, now due, and yet the hon. Gentleman proposed to give less for those four years than he (Sir R. Peel) did for one year. So much for the hon. Gentleman's second objection. With respect to the particular observations of the hon. Member, in regard to his conduct towards the Government on this question, he might be permitted to say, that he should always feel inclined to correct the Greenwich observations by reference to those of another observatory.

Viscount *Morpeth* should simply set the Committee right on one observation of the right hon. Baronet's, that no wrong deduction might be made from it. In the bill of the right hon. Baronet, alluded to in that debate, he had abandoned all claims for arrears of tithe in Ireland; and yet the right hon. Baronet would put it on the Government to enforce them now, Was that just or fair?

The Committee divided on Sir Robert Peel's Amendment. Ayes 101; Noes 122;—Majority 21.

List of the AYES.

Acland, Sir T. D.
Acland, T. D.
A'Court, Capt.
Alsager, Capt.
Attwood, M.
Bagge, W.
Bentinck, Lord G.
Blackburne, J.
Blair, J.
Blennerhassett, A.
Bradshaw, J.
Broadley, H.
Brownrigg, S.
Bruges, W. H. L.
Burrell, Sir C.
Chute, W. L. W.
Clive, Lord
Corry, hon. H.
Dalrymple, Sir A.
Darby, George
De Horsey, S. H.
Douglas, Sir C. E.
Dunbar, G.
East, J B.
Eastnor, Lord
Ellis, J.
Estcourt, T.
Estcourt, T.
Farnham, E. B.
Farrand, R.
Filmer, Sir E.
Fitzroy, hon. H.
Follett, Sir W.
Gibson, T.
Gladstone, W.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Greene, T.
Hardinge, Sir R.
Hayes, Sir E.
Henniker, Lord
Herbert, hon. S.
Herries, J. C.
Hillsborough, Earl of
Hodgson, F.
Hodgson, R.
Hogg, J. W.
Holmes, W.
Hope, hon. C.
Hotham, Lord
Inglis, Sir R. H.
Jones, T.
Knightly, Sir C.
Lascelles, hon. W. S.
Lincoln, Earl of
Lockhart, A. M.
Lowther, J. H.
Lucas, E.
Lygon, General
Mackenzie, T.
Mahon, Lord
Meynell, Captain
Neeld, J.
Nicholl, J.
Norreys, Lord
O'Brien, W. S.
Ossulston, Lord
Pakington, J. S.
Palmer, R.
Palmer, G.
Parker, M.
Parker, R. T.
Peel, rt. hon. Sir R.
Pemberton, T.
Praed, W. M.
Praed, W. T.
Pusey, P.
Reid, Sir J. R.
Richards, R.
Rickford, W.
Rose, Sir G.
Round, J.
Rushbrooke, R.
Rushout, G.
Sanderson, R.
Sandon, Lord
Sibthorp, Col.
Somerset, Lord G.
Stanley, Lord
Sugden, Sir E.
Tennent, J. E.
Tollemache, F. J.
Vere, Sir C. B.
Verner, Col.
Vivian, J. E.
Wall, C. B.
Walsh, Sir J.
Welby, G. E.
Wodehouse, E.
Wood, T.

TELLERS.
Lefroy, rt. hon. T.
Perceval, Col.

List of the NOES.

Adam, Admiral
Aglionby, H. A.
Archbold, R.
Baines, E.
Bannerman, A.
Barnard, E. G.
Bellew, R. M.
Blake, W. J.
Boldero, H. G.
Bowes, J.
Bridgemen, H.
Briscoe, J. I.
Brodie, W. B.
Brotherton, J.
Bryan, G.
Byng, G.
Byng, rt. hon. G.
Campbell, Sir J.
Carnac, Sir J.
Chalmers, P.
Childers, J. W.
Coote, Sir C.
Cowper, hon. W.
Crawley, S.
Crompton, Sir S.
Curry, W.
Dalmeny, Lord
Denison, W. J.
D'Eyncourt, C. T.
Duckworth, S.
Duncan, Lord
Dundas, F.
Dundas, hon. J.
Elliot, hon. J.
Ellice, Capt. A.
Evans, G.
Finch, F.
Fleetwood, Sir P.
French, F.
Gordon, R.
Grey, Sir C.
Grey, Sir G.
Hall, Sir B.
Hawes, B.
Hawkins, J. H.
Hayter, W. G.
Hector, C. J.
Hill, Lord A. M. C.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Horsman, E.
Hoskins, K.
Howard, F. J.
Howard, P. H.
Howard, Sir R.
Howick, Lord
Hume, J.
Hutt, W.
Hutton, R.
James, W.
Kinnaird, A. F.
Labouchere, H.
Lemon, Sir C.
Lushington, Dr.
Lushington, C.
Lynch, A. H.
Macleod, R.
M'Taggart, J.
Maher, J.
Marshall, W.
Maule, hon. F.
Melgund, Lord
Mildway, P. St. J.
Morpeth, Lord
Morris, D.
Murray, J. A.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O'Connell, M.
O'Ferrall R. M.
Palmerston, Lord
Parker, J.
Parnell, Sir H.
Pechell, Capt.
Pendarves, E. W.
Philips, M.
Pinney, W.
Power, J.
Protheroe, E.
Redington, T. N.
Rice, rt. hon. T. S.
Roche, E. B.
Rolfe, Sir R. M.
Rumbold, C. E.
Russell, Lord J.
Russell, Lord
Sanford, E. A.
Scrope, G. P.
Seymour, Lord
Sheil, R. L.
Smith, B.
Smith, R. V.
Stewart, James
Steuart, Lord J.

Strutt, E.
Teignmouth, Lord
Thomson, C. P.
Thornely, T.
Troubridge, Sir E. T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Wallace, R.
Warburton, H.
Westenra, J. C.
Wood, C.
Wood, G. W.
Wyse, T.
Yates, J. A.

TELLERS.

Steuart, R.
Stanley, E. J.

On the question that the clause as amended by Lord John Russell stand part of the Bill,

Mr. *Hume* moved, that it be omitted altogether, as being framed for the benefit of the Church of Ireland at the expense of the people of England.

Sir *R. Peel* declared that he could not at that moment support the proposition of the hon. Member for Kilkenny, whose constant opposition to the interests of the Irish Church rendered it prudent to consider seriously before acquiescing in any motion of his on that subject. At the present moment, when the House had just decided against him, he would not decidedly say what course he would take with respect to those arrears, and would reserve to himself the power of considering hereafter whether it would not be better for the clergy of the Church of Ireland that the clause should, or should not, be excluded from the bill. He felt that it would only be fitting and just with respect to the rights of vested interests of the heads of the Irish Church, and those chiefly concerned in its welfare to consult them ere he entered into the argument on the subject. He should, therefore, as the most respectful course to them and to the House, reserve his opinion on the preservation or rejection of the whole clause till the third reading, when he should have the power of moving its omission as a matter of course. Until he had consulted the natural heads of the Church and those most deeply interested, he was not sure that they would not prefer the law remaining as it was, rather than that they should be precluded from all redress by a hasty assent to the present proposition.

Mr. Hume pressed his motion, and the House divided on the original Question:— Ayes 171; Noes 43: Majority 128.

List of the AYES.

Acland, Sir T. D.
Acland, T. D.
A'Court, Captain
Adam, Admiral
Alsager, Captain
Archbold, R.
Attwood, M.
Bainbridge, E. T.
Bannerman, A.
Barnard, E. G.
Barrington, Lord
Bellew, R. M.
Bentinck, Lord G.
Blackburne, J.
Blair, J.
Blennerhassett, A.
Bridgeman, H.
Broadley, H.
Broadwood, H.
Brownrigg, S.
Bruges, W. H. L.
Bryan, G.
Burrell, Sir C.
Byng, G.
Byng, G. S.
Campbell, Sir J.
Cave, R. O.
Childers, J. W.
Chute, W. L. W.
Clements, Lord
Clive, Lord
Coote, Sir C. H.
Corry, hon. H.
Cowper, W. F.
Crawley, S.
Crompton, Sir S.
Curry, W.
Dalmeny, Lord
Dalrymple, Sir A.
Denison, W. J.
Douglas, Sir C.
Dunbar, G.
East, J. B.
Eastnor, Lord
Ellice, Capt. A.
Estcourt, T.
Estcourt, T.
Evans, G.
Farnham, E. B.
Farrand, R.
Filmer, Sir E.
Fleetwood, Sir P.
Follett, Sir W.
French, F.
Gibson, T.
Gladstone, W. E.
Gordon, R.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Greene, T.
Grey, Sir C.
Grey, Sir G.
Hardinge, Sir H.
Hayter, W. G.
Henniker, Lord
Herbert, hon. S.
Herries, J. C.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Hodgson, F.
Hodgson, R.
Hogg, J. W.
Holmes, W.
Hope, hon.
Hoskins, K.
Hotham, Lord
Howard, F. J.
Howard, P. H.
Howard, R.
Howick, Lord
Hutton, R.
Inglis, Sir R. H.
Jones, T.
Kinnaird, A. F.
Knightley, Sir C.
Labouchere, H.
Lascelles, W. S.
Law, hon. C. E.
Lefroy, rt. hon. T.
Lemon, Sir C.
Lincoln, Earl of
Lowther, J. H.
Lygon, General
Lynch, A. H.
Mackenzie, T.
Macleod, R.
Maher, J.
Mahon, Lord
Maule, hon. F.
Meynell, Captain
Mildmay, P. St. J.
Morpeth, Lord
Murray, J. A.
Neeld, J.
Norreys, Lord
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O,Connell, M.
O'Ferrall, R. M.
Ossulston, Lord
Palmer, R.
Palmer, G.
Palmerston, Viscount
Parker, J.
Parker, M.
Parker, R. T.
Parnell, Sir H.
Peel, Sir R.
Pendarves, E. W.
Perceval, Colonel
Pigot, R.
Pinney, W.
Praed, W. T.
Pusey, P.
Reid, Sir J.
Rice, T. S.
Richards, R.
Rickford, W.
Roche, E. B.
Rolfe, Sir R. M.
Rose, Sir G.
Round, J.
Rumbold, C. E.
Rushbrooke, Col.
Rushout, G.
Russell, Lord J.
Russell, Lord
Sanderson, R.
Sandon, Lord
Seymour, Lord
Sheil, R. L.
Sibthorp, Col.
Smith, B.

Smith, R. V.
Somerset, Lord G.
Spry, Sir S. T.
Stanley, E. J.
Stewart, J.
Sturt, H. C.
Sugden, Sir E.
Teignmouth, Lord
Tennent, J. E.
Thomson, C. P.
Troubridge, Sir E. T.
Vere, Sir C. B.
Verner, Col.
Vigors, N. A.
Vivian, J. E.
Wall, C. B.
Walsh, Sir J.
Welby, G. E.
Westenra, hon. J.
Wilshere, W.
Wodehouse, E.
Wood, C.
Wood, T.
Yates, J. A.

TELLERS.

Steuart, R.
Stanley, E. J.

List of the Noes.

Aglionby, H. A.
Baines, E.
Blake, W. J.
Boldero, H. G.
Bowes, J.
Bradshaw, J.
Brodie, W. B.
Brotherton, J.
Chalmers, P.
D'Eyncourt, C. T.
Duckworth, S.
Duncan, Lord
Dundas, F.
Dundas, J. C.
Finch, F.
Gillon, W. D.
Hall, Sir B.
Hawes, B.
Hawkins, J. H.
Hayes, Sir E.
Hector, C. J.
Hill, Lord A. M. C.
Horsman, E.
Hutt, W.
James, W.
Lushington, C.
Marshall, W.
Melgund, Lord
Morris, D.
Pechell, Capt.
Philips, M.
Protheroe, E.
Sinclair, Sir G.
Stuart, Lord J.
Strutt, E.
Style, Sir C.
Thorneley, T.
Tollemache, F.
Turner, E.
Villiers, C. P.
Wallace, R.
Warburton. H.
Wood, G. W.

TELLERS.

Sandford, E. A.
Hume, J.

On the 5th clause—

Lord *Stanley* said, that the loss of the 640,000*l.* which had been paid, was caused to the public because of the appropriation principle which the Government had introduced, and which they had since given up.

The *Chancellor of the Exchequer* said, that the appropriation of the 640,000*l.* was proposed long before the appropriation clause was even introduced.

Lord *Stanley* repeated, that it was the appropriation principle of 1834, which led to the 640,000*l.* being paid to the Protestant Clergy of Ireland.

Sir *R. Peel* proposed, that the words at the end of the clause should be left out as follows,—"by persons having such like estates or interests in the lands charged therewith, as would make the owners thereof liable to the payment of rent-charge under the provisions of this act."

The Committee divided on the original question:—Ayes 64; Noes 98 Majority 34.

List of the Ayes.

Adam, Admiral
Aglionby, H. A.
Baines, E.
Blake, W. J.
Brotherton, J.
Byng, rt. hn. G. S.
Chalmers, P.
Craig, W. G.
Crompton, Sir S.
Curry, W.
Dalmeny, Lord
Dundas, hon. J. C.
Elliot, hon. J. E.
Finch, F.
Gillon, W. D.
Gordon, R.
Grey, Sir G.
Hall, Sir B.
Hawes, B.
Hector, C. J.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Horsman, E.
Howard, P. H.
Howard, R.
Howick, Lord Visct.
Hutt, W.
James, W.
Lushington, C.
Lynch, A. H.
Macleod, R.
Martin, J.
Mildmay, P. St.
Morpeth, Lord
Morris, D.
Murray, hon. J. A.
O'Ferrall, R. M.
Palmerston, Viscount
Parker, J.
Pechell, Captain
Pendarves, E. W.
Pinney, W.
Rice, rt. hon. T. S.
Rolfe, Sir R. M.
Russell, Lord J.
Seymour, Lord
Smith, R. V.
Stanley, E. J.
Steuart, R.
Stuart, Lord J.
Strutt, E.
Surrey, Earl of
Thomson, C. P.
Thornely, T.
Troubridge, Sir E. T.
Vigors, N. A.
Warburton, H.
Wilde, Mr. Sergeant
Wilshere, W.
Wood, C.
Wood, G. W.
Yates, J. A.

TELLERS.

Labouchere, H.
Maule, F.

List of the Noes.

Acland, Sir T. D.
Acland, T. D,
Alsager, Captain
Archbold, R.
Attwood, M.
Bagge, W.
Barrington, Lord
Bellew, R. M.
Blackburne, I.
Blair, J.
Boldero, H. G.
Broadley, H.
Broadwood, H.
Brownrigg, S.
Bruges, W. H. L.
Bryan, G.
Burrell, Sir C.
Chute, W. L. W.
Clements, Lord
Clive, Lord
Corry, hon. H.
Dalrymple, Sir A.
Darby, G.
De Horsey, S.
Douglas, Sir G.
Dunbar, G.
East, J. B.
Eastnor, Lord
Ellis, J.
Eastcourt, T.
Evans, G.
Farnham, E. B.
Ferguson, Sir R.
Fitzroy, hon. H.
Follett, Sir W.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Herbert, hon. S.
Hillsborough, Lord
Hodgson, R.
Hogg, J. W.
Holmes, W.
Hope, hon. C.
Hotham, Lord
Hutton, R.
Inglis, Sir R. H.
Knight, H. G.
Knightley, Sir C.
Lascelles, W. S.
Lefroy, T.
Lockhart, A. M.
Lowther, Col.
Lowther, J. H.
Mackenzie, T.
Maher, J.

Mahon, Lord
Martin, T. B.
Meynell, Captain
Neeld, J.
Nicholl, J.
Norreys, Lord
O'Brien, W. S.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O'Connell, M.
Pakington, J. S.
Palmer, G.
Parker, R. T.
Peel, Sir R.
Perceval, Col.
Pigot, R.
Power, J.
Praed, W. T.
Pusey, P.
Redington, T.
Reid, Sir J. R.
Rickford, W.
Roche, E. B.
Round, J.
Rushbroke, R.
Sandon, Lord
Sheil, R. L.
Sibthorp, Col.
Sinclair, Sir G.
Somerset, Lord
Stanley, Lord
Sturt, H. C.
Teignmouth, Lord
Tennent, J. E.
Thompson, Ald.
Vere, Sir C. B.
Verner, Col.
Walsh, Sir J.
Westenra, hon. J. C.
Wood, T.
Wyse, T.

TELLERS.
Lucas, F.
Jones, T.

Viscount Morpeth proposed to add a clause to the following effect, "That the expenses of the revision of memorials and schedules be first defrayed out of the fund in the Exchequer, and the residue distributed rateably among the memorialists."

Sir *R. Peel* thought, that the Treasury, and not the Clergy, ought to bear all these expenses.

The House divided on the question, that the clause be added:—Ayes 62; Noes 51: Majority 11.

List of the AYES.

Adam, Admiral
Aglionby, H. A.
Archbold, R.
Brotherton, J.
Bryan, G.
Byng, rt. hon. G. S.
Chalmers, P.
Clements, Viscount,
Craig, W. G.
Crompton, Sir S.
Curry, W.
Elliot, hon. J. E.
Ferguson, R. A.
Fleetwood, P. H.
Gillon, W. D.
Gordon, R.
Grey, Sir G.
Hastie, A.
Hawes, B.
Hobhouse, Sir J.
Hobhouse, T. B.
Horsman, E.
Howard, P. H.
Howick, Viscount
Hutt, W.
Hutton, R.
Labouchere, H.
Lynch, A. H.
Macleod, R.
Maher, J.
Maule, hon. F.
Morpeth, Viscount
Morris, G.
Murray, J. A.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Palmerston, Viscount
Parker, J.
Pinney, W.
Ponsonby, hon. J.
Power, J.
Redington, T. N.
Rice, rt. hon. T. S.
Roche, E. B.
Russell, Lord J.
Sheil, R. L.
Smith, R. V.
Stanley, E. J.
Style, Sir C.
Thomson, C. P.
Thornely, T.
Troubridge, Sir E. T.
Vigors, N. A.
Wallace, R.
Warburton, H.
Westenra, J. C.
Wilde, Sergeant
Wilshire, W.
Wood, G. W.
Wyse, T.
Yates, J. A.

TELLERS.
Rolfe, Sir R. M.
Steuart, R.

List of the NOES.

Alsager, Captain
Attwood, M.
Bagge, W.
Barrington, Lord
Blackburne, J.
Blackstone, W. S.
Blair, J.
Bruges, W. H. L.
Clive, Lord
Corry, hon. H.
Dalrymple, Sir A.
De Horsey, S. H.
Douglas, Sir C.
Dunbar, G.
Ellis, J.
Estcourt, T.
Farnham, E. B.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Hogdson, R.
Holmes, W.
Hope, hon. C.
Jones, T.
Knight, H. G.
Knightley, Sir C.
Lockart, A. M.
Lowther, Colonel
Lowther, J. H.
Mackenzie, T.
Meynell, Captain
Neeld, J.
Nichol, J.
O'Brien, W. S.
Parker, R. T.
Peel, Sir R.
Perceval, Colonel
Pigot, R.
Praed, W. T.
Pusey, P.
Round, J.
Rushbroke, R.
Sibthorpe, Colonel
Stanley, Lord
Teignmouth, Lord
Tennent, J. E.
Thompson, Ald.
Trench, Sir F.
Verner, Colonel
Walsh, Sir J.
Wood, T.

TELLERS.
Inglis, Sir R.
Lefroy, T.

The clause agreed to, as were the remaining clauses.

The House resumed and the report was received.

SCHOOLS (SCOTLAND).] The Chancellor of the Exchequer moved the third reading of the Schools (Scotland) Bill.

Mr. *Gillon* said, that late as the hour was, he felt it to be his duty to state his objections to this Bill. He objected to the way in which the money was to be raised, and he thought the only effect which such a measure could have, would be to introduce a narrow and sectarian system of education in Scotland. He also objected to the arrangements with respect to schoolmasters, and he could only say, that the bill would not satisfy those at whose instance it had been brought forward. It was a measure fraught with injustice to the Scotch Dissenters, and before such a bill was passed the Government should recollect, that it was from the Dissenters of Scotland they received their best supplies. If this measure were passed it was exceedingly doubtful whether the Chancellor of the Exchequer could carry his proposed committee on the subject, and he (Mr. Gillon) must say, that such a bill, instead of proceeding, ought to have waited the result of the inquiry intended to be instituted. Legislation of this kind was felt as "a severe blow and great discouragement," to the Dissenters of Scotland; and, therefore, he should not discharge his duty if he did not move, that the bill be read a third time that day six months.

Mr. P. Howard seconded the motion.

The *Chancellor of the Exchequer* defended the bill, and hoped the House would allow it to pass the final stage.

Mr. *Wyse* said, that if he received an assurance from the right hon. Gentleman, the Chancellor of the Exchequer, that a general inquiry into the subject of education in Scotland should take place, he would support the motion for the third reading of this bill, but otherwise he must oppose it.

The House divided on the original motion:—Ayes 42; Noes 17: Majority 25.

List of the Ayes.

Adam, Admiral
Bagge, W.
Barrington, Lord
Bernal, R.
Blair, J.
Curry, W.
Darby, G.
Douglas, Sir C. E.
Dunbar, G.
Elliot, hon. J. E.
Ellis J.
Ferguson, Sir R.
Grey, Sir G.
Hastie, A.
Hobhouse, Sir J.
Hodgson, R.
Holmes, W.
Howick, Lord
Inglis, Sir H.
Jones, T.
Lefroy, rt. hon. T.
Lockhart, A. M.
Lowther, J. H.
Lynch, A. H.
Maule, hon. F.
Murray, J. A.
Nicholl, J.
O'Brien, W. S.
O'Ferrall, R. M.
Parker, R. T.
Perceval, Colonel
Rice, right hon. T. S.
Rolfe, Sir R. M.
Rushbrooke, R.
Russell, Lord J.
Steuart, R.
Tennent, J. E.
Thomson, C. P.
Troubridge, Sir E. T.
Vernor, Colonel
Westenra, J. C.
Wilde, Sergeant

TELLERS.
Stanley, E. J.
Parker, J.

List of the Noes.

Aglionby, H. A.
Archbold, R.
Brotherton, J.
Bryan, G.
Hobhouse, T. B.
Horsman, E.
Hutton, R.
Maher, J.
O'Connell, M. J.
O'Connell, M.
Power, J.
Redington, T. N.
Style, Sir C.
Vigors, N. A.
Warburton, H.
Wood, G. W.
Wyse, T.

TELLERS.
Gillon, W.
Howard, P.

Bill read a third time and passed.

Parliamentary Burghs (Scotland)]. On the motion of Mr. Fox Maule, the Parliamentary Burghs (Scotland) Bill was read a third time.

Mr. Gillon moved, that the 6th clause, which had been struck out in Committee, be reinstated.

Mr. *Fox Maule* regretted, that he must oppose the motion of his hon. Friend. He, with his hon. Friend, placed considerable value on the clause; but in order to conciliate the opinions of some hon. Gentlemen opposite, and in order to secure the other advantages which would, no doubt, result from the bill, he had been induced to forego it. His honour was pledged, and, therefore, he must resist the motion of his hon. Friend.

The House divided:—Ayes 6; Noes 46: Majority 40.

Clause lost, and bill passed.

HOUSE OF LORDS,

Tuesday, July 24, 1838.

Minutes.] Bills. Read a first time:—Prisons; Parliamentary Burghs (Scotland); and Schools (Scotland).—Read a second time:—Royal Exchange; Loan Commissioners Relief.—Read a third time:—International Copyright; Prisons (West Indies).

Petitions presented. By the Bishop of Exeter, from a place in Ireland, against the Irish Corporations Bill; from Bradford, complaining of the present Factory system.—By the Earl of Albemarle, from Norwich, to the same effect.—By the Duke of Wellington, from Wells, for an alteration of the Beer Bill. [The Prisons Bill, the Parliamentary Burghs (Scotland) Bill, and the Schools (Scotland) Bill, were brought up from the Commons.]

The British Legion.] The *Marquess of Londonderry* seeing the noble Viscount (Melbourne) in his place, wished to call his attention to something which fell from him the other night. He was quite sure that the noble Viscount had no intention or desire to convey a wrong impression, but the noble Viscount had stated, in answer to his question whether he had any information respecting any arrangement for the liquidation of the claims of the unfortunate officers and soldiers of the British Legion—that the commission for that purpose was in active operation. [Viscount *Melbourne*, constituted.] He had looked into all the reports, and found that the import of all was the same. But, however that might be, he had since received a letter from Colonel Shaw, which he begged leave to read to their Lordships:—

"Colonel Shaw begs to inform Lord Londonderry that on Tuesday last he had a conversation with Capt. Hay respecting the commission to settle the claims of the Legion; that gentleman informed Colonel Shaw that the commission had not yet assembled, nor did he know when it would; and that Mr. Ximenes had informed him that he (Mr. Ximènes) was the only commissioner appointed by the Spanish government, which had not the means of paying the claims even were they investigated."

He was quite convinced that the noble Viscount could not have stated, that the commission was in active operation, had he been aware of the real state of the case, it appeared now that this M. Ximenes, who was the only Spanish commissioner, had declared that there was no intention of assembling that commission. Under these circumstances he should be glad to understand from the Noble Viscount, whether he would have any objection to produce any correspondence which might have passed between her Majesty's Government, Sir G. De Lacy Evans, and those gentlemen respecting the assembling of that commission. It appeared to him quite clear that it was the intention of the Spanish government if possible, to protract and delay the investigation until after Parliament had been liberated; and then, during the recess, those unfortunate men would be left without any hope of escaping from their present distress. The noble Viscount had stated that the commission was proceeding to settle their claims; and he (the Marquess of Londonderry) had positive evidence that it had not yet assembled. He wished, therefore, that the matter should be explained.

Viscount *Melbourne* knew not what the correspondence was, to which the noble Marquess had alluded, but of course if it were any part of the papers which had been laid before the other House, there could be no objection to its production in that House. With regard to what had fallen from him the other night, he did not know that he had answered for the activity of the operations of that commission. He certainly had stated that two commissioners had arrived in London, and that he therefore considered that the commission had been constituted; but how they were going on of course he could not know.

Subject dropped.

QUADRUPLE TREATY.] The Marquess of *Londonderry* having the other night been referred to the noble Earl at the head of the Admiralty, wished now to repeat the question which he had then put, with respect to what that noble Earl considered to be the construction of the 2d article of the Quadripartite Treaty. He apprehended that the noble Earl had taken an entirely incorrect view of that question. The noble Earl certainly construed that article of the treaty in a way totally different from the noble Duke (Wellington) behind him, whose opinion had been confirmed and corroborated in the fullest manner by the colleague of the noble Earl, the noble Viscount at the head of her Majesty's Government. Such was the difference of opinion between the noble Viscount and the noble Earl; and under those circumstances he had a right to call on the noble Earl to satisfy the country and the House that he had abandoned those private views which he had formerly stated to their Lordships, and adopted the opinions entertained by the noble Viscount at the head of the Administration. This was a matter of grave importance, because if the noble Earl would still in a supposed case hold himself justified in issuing instructions, such as those which had been complained of—founded on his notions of the treaty, that private opinion of the noble Earl's, contradicted as it had been by his noble colleagues, might involve this country and Europe in a war. He wished, therefore, to know whether the noble Earl at the head of the Admiralty had recanted his former opinions in deference to those of the noble Viscount, or whether, if he retained them, he would declare that he did not intend to act upon them.

The Earl of *Minto* said, he was happy that the noble Marquess had discovered that the best means of obtaining an answer to a question was to put it in the presence of the person to whom it should be addressed; he certainly had not answered the question on a former occasion, because he was not in the House when it was put. With regard to the question itself, although he meant to give it a distinct and explicit answer, he must in the first place say, that as it regarded merely the private opinion of an individual Minister or Member of that House, he did not think it was one which any noble Lord was justly entitled to put; but having said that, he begged to add, that neither the close argument, nor the eloquence of the noble Lord, nor his great authority, political or legal, had sufficed to wean him from his previous opinion. What he had before expressed it still remained; and accordingly, whatever weight that private opinion might have in the affairs, which came under his direction, their Lordships knew in what way it would operate. If any difference of opinion existed on the subject between himself and the noble Viscount, or any other noble Lord, he might regret it; but he must still venture to think that his own construction of the treaty was correct.

Lord *Brougham* said, the noble Earl's pertinacity in adhering to his opinion did not lessen his conviction of the palpable error of that opinion, or that by acting upon that opinion the noble Earl would be guilty of putting in peril the honour and reputation of this country, and the peace of Europe, by committing a most flagrant violation and outrage on one of the most solemn principles of international law. But if the noble Earl's perseverance in error had not increased his opinion of the noble Earl's wisdom, it had at least increased his opinion of the propriety of the division which he had pressed upon their Lordships the other night. For, notwithstanding that the First Lord of the Treasury entertained and expressed the sounder opinion, yet the First Lord of the Admiralty was the person who was to issue the orders, if any were to be issued at all, and the noble Earl now had stated, that in that erroneous opinion he still persisted. He would now only put a question to the noble Earl (Minto). There was no doubt that the argument which had been used the other night against the production of those orders was, that it might be very inconvenient to produce instructions that were of a contingent nature; but the argument could not always be used, and as the time must sooner or later arrive when no risk to the public service could be incurred, and when the contingency no longer existed, he hoped that then those instructions would be found to be in the ordinary official form, signed by two Lords of the Admiralty, and perhaps countersigned, so that then there might be no objection to their production.

The Duke of *Wellington* was understood to say, that there was no ground for the apprehensions which the noble and learned Lord had seemed to entertain, in consequence of the erroneous opinion of the noble Earl; for, as he had stated on a former occasion, although the private opinion of the First Lord of the Admiralty might be of importance, with respect to the business of minor consequence connected with that office, such was not the case with regard to great questions of policy, for then it must be the opinion of the whole Cabinet which was to direct the proceedings of Government; and the opinion of the noble Earl, whatever respect might be due to it, would not be entirely conclusive on the subject. As to the particular papers which had been moved for on that occasion, he begged to say, that the inclination of his mind was always to avoid, as far as possible, calling on the Government to produce papers of that nature. He did not think it was the practice of the House to do so; and he knew that sometimes serious injury resulted to the public service from the production of documents of that description which depended upon some contingency. He knew nothing as to giving confidence, or not giving confidence to the Government; but he did not think it right to call on the Government to give papers which he knew, if he were sitting on the other side of the House, he should not be inclined to produce. Such was the principle on which he generally acted; but he must confess that at first, when he had heard this paper defended by so important a Member of the Government as the noble Earl (Minto), and the particular officer who had carried it into execution, he did feel that it was necessary that the House should see the paper, because it went much farther than could have been expected. But then, when the noble Viscount came forward and said, that he did not concur in that opinion, but his (the Duke of Wellington's) opinion on the subject, he did not feel it to be his duty to press for the paper; but he reverted to his original intention when he came down to the House, which was, to vote against the granting of the papers.

Lord *Brougham* admitted, that the general rule as laid down by the noble Duke was quite correct. But he considered that a case had been fully made out for an exception to that rule. The noble Earl had persisted in his error, and who knew whether it might not be now acted upon? Who knew that the noble Earl might not overcome the noble Viscount? Would the noble Earl say, if the order was signed by the noble Earl himself alone, or by some other Member of the Government in conjunction with him?

The Earl of *Minto* said, that the question assumed, that such an order had been issued, which he had never admitted. The account of what had passed, which had been given by the noble Duke, seemed to him strictly accurate. The noble Duke had stated that which was known to all persons acquainted with official business—that whether the orders were issued or not, they could only be issued under the directions of a Secretary of State, and not upon the responsibility of the single Minister at the head of the Marines.

Lord *Brougham* said, that the noble Earl now chose to treat this order as not existing, but the inconvenience of producing it had been alleged to arise from its being a conditional order. Now if it did not exist, it could not be conditional, for nonentities were in their nature neither conditional nor unconditional. But as the noble Earl said, that he would not tell whether it was signed by himself alone, because he had never admitted the existence of the order at all, he begged to know whether he would object to give the date of any orders issued from the Admiralty to any cruisers whatever within the last four years, which were only signed by the First Lord of the Admiralty? No inconvenience to the public service could arise from such a return, because only the dates were to be given, and they would not occupy three lines.

The Earl of *Minto*. They would not occupy one line, because there was no such order that he was aware of.

The Marquis of *Londonderry* begged to congratulate the noble Viscount, that he had been able so well to organize his forces, judging not only from the exhibitions in that House, but from specimens of another nature in another place. He regretted to see such exhibitions as were presented by the Government, in whose hands, unfortunately for the honour of the country, the administration of affairs was now placed. He only hoped, with regard to this difference of opinion between the noble Viscount and the noble Earl, that the opinion of the noble Earl at the head of the Admiralty might be kept under control; and that care would be taken that no instructions should be issued to the cruizers on the Spanish coast, which might endanger the honour and peace of this country.

Subject dropped.

SPANISH INDEMNITY BONDS.] The Earl of *Aberdeen* said, that in giving notice that he should to-day present a petition from the holders of Spanish Indemnity Bonds, he had ventured to express an opinion, that he should make out a case, which called for the interference of the Government in their behalf; and he must say, that if the privation and sufferings of any parties were calculated to excite the sympathies of her Majesty's Ministers and obtain from them relief, in the present case those inducements were doubly strong—because the Ministers had been themselves partly the cause of the misfortunes, and the Government was bound to see, that relief was extended. These claimants differed widely from the common class of claimants on the faithless government of Spain. They had heard in that House of the great hardships of those persons who had been connected with the Auxiliary Legion, and who had implored frequently the assistance of Parliament, owing to the impossibility of obtaining the liquidation of their just claims by the Spanish Government; and though, perhaps, in their case, the Government at home, in consequence of the tacit encouragement which it afforded to that expedition, might be, in some degree, morally bound to assist those claimants; still, it was not at all legally bound to interfere in their behalf further than to use its good offices in endeavouring to procure from the Spanish government the payment of their debts. So the holders of any Spanish stock, who had suffered so seriously from, the bankrupt policy of that government had no claim except on the good offices of the British Government. The credit of their own Government was not to be called forward to support those who, by entering into these speculations, had taken the chances of dealing with a government of that character; but those persons, whose petition he should present to their Lordships, stood on a different footing; they were claimants under a treaty which had been ratified by their own Sovereign; and unquestionably, if the Government did not see, that the conditions of that treaty were carried into effect, the claimants were justly entitled to come upon the Government for indemnity. The state of the case, was briefly this; in 1813 a convention had been entered into at Madrid, when Sir W. A'Court was British ambassador at that court, by which the Spanish government was bound to indemnify those persons who had suffered in the war in the South American colonies. That Convention was ratified by Ferdinand on his restoration, and a commission was appointed to carry it into effect, but little hope was entertained, that the obligations under it could ever be fulfilled. He remembered, that Mr. Canning had spoken despondingly of the success of that commission, but claims were registered under it to the amount of two millions sterling on the part of British subjects, and Spanish claims to the amount of twelve hundred thousand. Subsequently, however, a compromise had been entered into, by which the British claimants compounded their claims, for 900,000*l*., and the Spanish for 200,000*l* That compromise had been carried into effect; of the 900,000*l*., 600,000*l*. had been paid in specie at the time, and 300,000*l*. had been created in bonds, on which the interest had been paid regularly till within the last three years. Now, he having been the person who had negociated that treaty, the persons who held those bonds imagined, that he would probably take an interest in its fulfilment, and had, therefore, applied to him frequently to lay their case before Parliament; but he had dissuaded them from petitioning as he had thought, that they might safely rely on the honour and credit of the Government to see, that a treaty of that kind with such conditions should be carried into effect; but when he found, that the whole amount was only 30,000*l*. a-year, he considered it impossible, whatever might be the state of the Spanish government, that that sum should not have been paid, if the Government here had used proper means to enforce its payment. Culpable as he thought the remissness of Government had been, he did not wish to indulge in any unnecessary reprobation of their conduct; he only wanted to stimulate them to exertion—to whet their almost blunted purpose, and to force upon them the necessity of exacting that act of justice, which, he was sure, there could be no difficulty in obtaining. He would just ask their Lordships—supposing, that this had been a claim on Don Carlos, and that he had been successful in the civil war—would they not have heard long since of a threat of reprisals? And did they not believe, that if a threat of reprisals had been issued the money would have been produced before this time? If fraud and dishonesty were practised by a government, even though it were a liberal government, such ought to be the course pursued. These parties, then, had not merely a claim on the justice of the Spanish government, but they had also a claim on the honour and good faith of this country, which was bound to see that that treaty to which those persons had submitted on the faith of their own Government, was strictly fulfilled. Such, indeed, had been the confidence which that circumstance inspired, that at a time when Spanish funds of every other description were unsaleable in Europe, these bonds not merely kept their former standing in the market but actually rose in value. He did say, then, that if these bonds were found to be no better security for payment from the Spanish government than any others, the loss ought not to fall upon those holders, but that they were entitled to be indemnified by their own Government. He would now present the petition. He would not make a motion on this occasion; but he thought, that these parties ought to receive some redress. If, however, nothing could be done, he thought, that the House ought to come to some resolution on the subject.

Viscount *Melbourne* said, that persons having claims had undoubtedly a right to call on the Government of this country to enforce those claims, and to see, that they were observed by the Spanish government. So far as this, he concurred with the noble Earl. The noble Earl also said, the Government had not taken measures necessary to obtain that redress which the subjects of her Majesty had a right to ask. Undoubtedly the noble Earl could not expect, him to agree with him in that respect. He thought if the noble Earl had been acquainted with the statements made by our Minister at Madrid, and the manner in which he had pressed these claims, that the noble Earl would have been satisfied, that there had been no want of due diligence, or want of consideration towards the rights of her Majesty's subjects on the part of the Government. The noble Earl said, that whatever might be the state of the finances of Spain, that the Government ought to have enforced this payment. This was a subject upon which he was unwilling to dilate. Every body knew the difficulties in which the government of Spain was at present placed. He believed there would be great difficulty even in procuring the sum necessary for the liquidation of this demand. The claim was admitted by the Spanish government, and he believed it had every disposition to exert itself to liquidate it. The English Government had addressed the Spanish government as far as, under the circumstances in which that government was placed, they had thought wise, prudent, and satisfactory. They had not made reprisals, and he would put it to the noble Earl whether it would be better to break in upon their general system of policy, and for the sake of these claims, to do that which would endanger the Spanish government, be likely to embroil further the affairs of that country, and to impoverish its resources and thereby cut off all hopes of the liquidation not only of these claims but of all other claims of her Majesty's subjects on the Spanish government? In concluding he would say, that there had not been any want of attention or any listlessness on the part of her Majesty's Government.

Petition laid on the table.

SALE OF BEER ACT.] Lord *Portman* having presented a petition from the licensed victuallers of New Sarum in favour of the Beer Act,

Lord *Brougham* said, that he should take this opportunity of stating, that he should not think of pressing his bill on this subject this Session. He hoped, that it would be suffered to pass the House and not be carried into execution till next Session. This would give a warning to persons not to embark their capital in beer-shops.

Petition laid on the table.

THE WESTMEATH ELECTION.] The Marquess of *Westmeath* said, that in March last he felt it his duty to bring under the notice of their Lordships some transactions which arose out of the last election for the county of Westmeath. He then said, as the fact was, that the statements which he had to make rested on rumour, but the reason of this was, because, although he had applied to the Irish Government for the necessary information, he had been unable to obtain it. He now, however, did not labour under the same disadvantage, because since then an investigation had been held upon the subject by order of the Lord-lieutenant. It appeared that the Lord-lieutenant of Ireland —and this remark applied to all former Lords-lieutenant, as well as the present, had been in the habit of instituting Courts for the investigation of certain circumstances from time to time brought before him. He would not undertake to say whether such a power ought to be exercised or ought not; but he at the same time thought the subject was one that was well worthy the attention of those noble Lords who were acquainted with the principles of constitutional law. For his own part, he thought such a practice calculated only to produce mischief, and he could not understand what good could result from an inquiry by a tribunal so constituted. In the present instance, the case to which he wished to call their Lordships' attention arose out of the misconduct of a magistrate, whose appointment he deprecated at the time as improper. As he on a former occasion stated to their Lordships, this appointment was made at the instance of Sir Richard Neagle, who, as their Lordships must recollect, was himself removed from the commission of the peace in 1832, and again reinstated in 1836. It was necessary that he should allude to that transaction. In 1832 the Irish Government found it incumbent on them to call Sir Richard Neagle to account for certain language which had been held at a tithe meeting of which he was chairman, and the result was, that Sir Richard Neagle wrote a letter in which he recommended the Roman Catholics not to pay tithes. This conduct was unpalatable to the Government, and the consequence was, that the noble and learned Lord who then, and now, held the office of Lord Chancellor of Ireland removed Sir Richard Neagle from the magistracy of the county of Westmeath. Before his restoration, however, Sir R. Neagle wrote a letter to him (Lord Westmeath), recommending Mr. Sheil as a fit and proper person to be placed in the commission of the peace: and in this letter he stated, that the other Member for the county concurred in the propriety of Mr. Sheil's appointment. In reply to this communication, he informed Sir Richard Neagle that he saw no necessity whatever for increasing the number of the magistrates in the district of the county in which it was intended Mr. Sheil should act, and as to the opinion of the other party alluded to, he observed that little stress could be laid on the recommendation of that gentleman, as he resided at a distance of nineteen miles from the place in question, and therefore could not be a competent judge as to whether a necessity for the appointment of another magistrate existed or not. Subsequently to this he received a communication from the Lord Chancellor of Ireland on the subject. The noble and learned Lord stated, that Mr. Sheil had been recommended to him by the lord-lieutenant as a party whose appointment was desirable on the ground that it would tend to a more satisfactory administration of justice in that particular locality, and he answered this communication by assuring the noble and learned Lord that there was no occasion whatever for such an appointment, there being already six or seven magistrates who discharged the duties at petty sessions in a highly satisfactory manner, and that in short the appointment would not for other reasons be a proper one to make. Notwithstanding this, however, the noble and learned Lord thought fit to introduce Mr. Sheil into the magistracy of the county of Westmeath, and such a mode of proceeding was so contrary to the doctrine laid down a few nights ago by the noble and learned Lord on the woolsack, that it was impossible not to call their Lordships' attention to it. The noble and learned Lord on the woolsack, on the occasion to which he referred, recognised the propriety of confidential communication between the lords-lieutenant of counties and the keeper of the Great Seal in relation to all appointments to the commission of the peace; but that was a very different case from the present. In that case it was alleged by the noble Earl, the lord-lieutenant of the county of York, that parties had been appointed to the magistracy from political motives; but how was the allegation met? why, by showing, that the noble Earl was the party who was in fault, because he had neglected to enter into communication with the Lord Chancellor on the subject. Those noble Lords who heard what fell from the noble and learned Lord on the woolsack understood the matter as he did, and his understanding of the observations of the noble and learned Lord was, that had the noble Earl stated to him any local reasons which rendered such appointments inexpedient, they would not have been made. This was his understanding of what passed in the debate to which he referred, and it was, therefore, impossible for him not to be struck with the contrast which existed between the conduct of the Lord Chancellor of Ireland and that pursued by the noble and learned Lord on the woolsack. There was a great deal of excitement during the last election for the county of Westmeath in the town of Mullingar. It was found necessary for the peace that troops of soldiers and large bodies of police should be brought into that town, and on the evening of the 11th of August a great——

Lord *Plunket* said, that he was induced to interrupt the noble Marquess, not because of anything he had said in reference to himself personally, but merely to apprise their Lordships that no objection was intended to be offered to the motion with which the noble Marquess meant to conclude. The object of the noble Marquess was the production of the evidence taken before the commissioners who presided at the inquiry held on this subject at Mullingar on the report of those commissioners, and as he, so far from objecting to that motion, was ready to consent that the whole of the papers should be laid on the table, he submitted to the good sense of the noble Marquess, whether his interruption was not justifiable. The noble Marquess must be aware that the statement of facts which he was about to enter upon grew out of the evidence taken during the inquiry; and how, he asked him, were their Lordships to assume whether his statements were correct or not until the evidence on which they were founded was before them. It was impossible to go into the case in the absence of the evidence, and therefore, the noble Marquess must see, that the course he wa sabout to pursue was clearly irregular. The noble Marquess might aver that to be the fact on the one hand, while he might be justified in denying it on the other; and as such a proceeding could not be otherwise than painful to their Lordships, he hoped the noble Marquess would postpone what he had to say until the papers were placed upon the table of that House. Their Lordships would then be in a position to determine who was right and who was wrong, and not before.

The Marquess of *Westmeath* said, that the noble and learned Lord had no right whatever to trespass on his patience, or interfere with the exercise of his undoubted privilege of addressing their Lordships in the manner he had done. It would seem that the noble and learned Lord had interrupted him for the purpose of making a speech himself; but he must be allowed to tell the noble and learned Lord that such a proceeding was not consonant to the practice of their Lordships' House. In the line of conduct which he thought fit to pursue there was a difference of opinion between him and the noble and learned Lord; but all he wanted was to lay Parliamentary grounds for his motion, and this he contended he had a perfect right to do.

Viscount *Melbourne.* You can have the papers without any statement.

The Marquess of *Westmeath.* Yes, but the noble Viscount must permit me to give their Lordships the grounds upon which I call for their production. In March last, when he brought this matter before their Lordships, he was without proper information, because the Irish Government did not choose to enter into communication with him; and what was the result? why that libels had been showered upon him from all quarters, for which he might have brought the parties to the bar of that House, had he thought fit, or appealed to the laws of his country. The fact, however, was, that he had been grossly ill-treated by the Irish Government, and therefore it was, that he had no desire to see their conduct cushioned. The noble and learned Lord was fully aware of his intention to bring the subject forward that night, and if he were not prepared for the discussion that was not his fault. He must therefore stand upon his right, and as he was not bound to withdraw from his intention he would not.

Viscount *Melbourne.* No statement is necessary, as there is no objection to your motion.

The Marquess of *Westmeath* said, that the noble Viscount had no right to stop him in the course he was pursuing. He knew he was right, and therefore he would proceed. There was on the evening to which he adverted a tumultuous meeting at a public-house in Mullingar, and after the police and resident Magistrates had arrived there Mr. Sheil and Mr. Fitzsimons introduced themselves to this meeting. In March last he stated, as he believed at the time, that the two individuals whom he had named were found in the public-house by the police; but in this he was wrong, as they were not found there, but made their appearance immediately after the police had obtained admission to the house. They, however, identified themselves with the transactions which took place, and, consequently, the error into which he had fallen was of no importance whatever, as the effect produced was exactly the same. The fact was, that he had been misled in this instance. But why had he been misled? Simply because the Irish Government wished to take advantage of him. He would now state nothing which could not be borne out. The parties who went to the public-house on the occasion referred to were twenty-five policemen, and they were accompanied by the chief constable, and the resident magistrate. The chief constable, as was his duty represented the transaction to the proper authorities. Indeed, he would have been guilty of misconduct if he had not. But what was the consequence? Why, that Mr. Deglisau received the thanks of both Colonel Shaw Kennedy and Colonel O'Donoughue for his conduct. He begged their Lordships to bear this in mind. Mr. Deglisau heard nothing more of the affair for many months, not until he was called upon by the Government to furnish a copy of his report. The occurrence took place in August, and it was not until December that this report was called for by the Government, although their attention had been previously directed to the circumstance. Mr. Deglisau had not only been grossly insulted and spat upon, but his personal safety rendered it necessary, that he should be attended by two orderlies during the whole of the election. On the night of the 11th of August he was accosted by Mr. Fitzsimon in an insulting manner. Mr. Fitzsimon asked him what business he had there; and although Mr. Sheil knew Mr. Rowan, the resident magistrate well, he allowed him to be shoved and pushed about without even once interfering to prevent it. The Irish Government thought the matter of sufficient importance to institute an inquiry and it was not a little remarkable, that when he first stirred in it he was informed, that the official report had been lost. Although this statement had been made, it appeared from the testimony of Mr. Fitzsimon, that the report had passed into the hands of Mr. Sheil. It was afterwards in the possession of Mr. Fitzpatrick, the secretary of the Liberal Club; and he was able to show that its contents were known to Priest O'Brien, Priest O'Farrell, and several other parties connected with that club, in subsequent committees. Mr. Drummond, in a studied manner, endeavoured to get rid of the subject, and it was not until he had been suddenly called on for the report by Lord Morpeth, that he took any steps to obtain it. How was it possible, after such prevarication on the part of the Irish Secretary, that the affairs of that country could be properly carried on. On the 11th of December Mr. Drummond wrote to Mr. Rowan as follows:—

> "I have to acknowledge the receipt of your communication of the 9th instant, referring to the conduct of Messrs. Fitzsimon and Sheil, and I am to inform you that these gentlemen having been called upon for an explanation in consequence of your report, they transmitted to the Government statements differing in many respects from yours. In consequence of this variation, it was directed that the papers should be sent again to you for any observations you might have to offer; but owing to some accident, which cannot at present be accounted for, the papers cannot be found in the office. Search is still making for them, and a letter has been written for the purpose of ascertaining whether they have been sent to the Irish Office in London. If found, they will be immediately transmitted to you. If not found, it will be necessary to call on all parties concerned for copies of the letters and statements.'

In this letter Mr. Drummond stated, that Mr. Fitzsimon and Mr. Sheil had been called to account; but what was the testimony of Mr. Sheil on this head? Why he denied, that he had ever been called on for explanation by the Irish Government. [Lord *Plunket*: How does that appear?] It appeared from the evidence given by Mr. Sheil on the inquiry. What was it that further appeared from that evidence? Why, that Mr. Drummond was in communication during the whole of these transactions with Mr. Sheil. Mr. Sheil declared, that the Lord-lieutenant was perfectly satisfied with his conduct; but what did Mr. Drummond say? Why, that Mr. Sheil had been written to for explanation. There was, then, mistake somewhere; for Mr. Sheil not only denied Mr. Drummond's statement, but asserted, that the Lord-lieutenant was satisfied with his conduct. It was true, that after the occurrence at the public-house, Mr. Fitzsimon apologized both to Mr. Rowan and Mr. Deglisau, but he at the same time used language towards the police, which was insulting to them and the Government. Mr. Rowan declared that he appealed to Mr. Sheil to maintain tranquillity, but without effect; and he was then told, that the police had no right to be there to interrupt the freeholders. From the evidence of the son of the person who kept the public-house, it appeared, that there was only five beds in it, and consequently, as the persons assembled in it, amounted to fifty-one, it was clear they were amenable under the "Tippling Act." The Government, however, dispensed with the law, and turned round on their own officers; but what sort of tribunal was it by which they were tried, Mr. Deglisau was ordered, on Tuesday, to appear at Mullingar; on the Monday following, to take his trial. On Wednesday he went to Dublin, to see Major Warburton; and it was not until the Friday that he reached Mullingar; so that, in point of fact, he had only a single day to prepare for his defence. He applied to the Commissioners to enforce the attendance of the witnesses he was anxious to examine; but what was the answer of the Commissioners to that application? Why, they told him, they possessed no such power. All they could do, they said, was to administer an oath, and if a witness refused to come forward, they had no means of compelling his attendance. This was singular, but strange; still he was himself called on to appear, simply because he had brought this matter under the notice of their Lordships. He really should be glad to hear from the noble and learned Lord whether such Courts as this were to be resorted to in all future times? It was Mr. Sheil who gave rise to the disturbance, and yet he supposed that Gentleman was to be continued in the commission of the peace for the county of Westmeath. He had no doubt, that when these papers were placed on their Lordships' table, they would exhibit a pretty picture, with respect to the manner in which the Irish Government was carried on. He would defy them to get rid of the conduct of which their *protegé* had been guilty. But how different was the course of proceeding in this and in other cases. Mr. Blacker had been dismissed from the commission of the peace, merely because, an Orange emblem had been placed in the balcony of one of his windows, without his knowledge; and, because Mr. St. George, one of the most respectable men in Ireland, had done something that was distasteful to the Government, he also was removed from the magistracy. The truth was, that the present case was the parallel of that in which Mr. O'Connell was concerned. Mr. O'Connell was a magistrate for the county of Kerry, and although he had used denunciations at Carlow, which Mr. Vignolls, the chief constable of police, was ready to verify, his statement being substantiated by the testimony of two of the officers of the 71st regiment, yet Mr. O'Connell was allowed to continue in the commission of the peace for the county of Kerry. This, then, was anything but even-handed justice. He (the Marquess of Westmeath) brought the subject forward, on public grounds, and not wishing to say anything of Mr. Sheil more than he could help, for he did not even know him, the only additional remark he would make, was, that he did not think Mr. Sheil was in such a situation in life as to justify his being placed on the bench of a county where the magistrates were all men of great respectability and large property. The noble Marquess, in conclusion, moved for the production of the evidence taken during the inquiry at Mullingar, and the report of the Commissioners thereupon.

Lord *Plunket* said, that it was not his intention to reply to that part of the speech of the noble Marquess which applied to himself in relation to the appointment of Mr. Sheil to the magistracy of the county of Westmeath, and he thought their Lordships would also excuse him if he declined to follow the noble Marquess through the imputations which he had cast on the Lord-lieutenant, Mr. Drummond, and Lord Morpeth. He mentioned Lord Morpeth, because he was one of those against whom censure had been pronounced by the noble Marquess; for it was Lord Morpeth who had recommended the appointment of Mr. Sheil, on the ground that it would not only be satisfactory, but lead to the peace and tranquillity of that part of the country. It was, in fact, on the recommendation of Lord Morpeth that he (Lord Plunket) made the appointment; but still he denied, that the noble Marquess had any right to complain of that appointment, inasmuch as he had been applied to for information on the subject, but had failed to state any objection which could be considered as valid. This was the reason why he had used Lord Morpeth's name. The observations which the noble Marquess had made about Mr. Deglisau, Mr. Blacker, and others, had no relation whatever to the present subject; but although the noble Marquess had spent upwards of half an hour in making statements respecting the trial which had resulted from a transaction which took place in an alehouse in Mullingar, he should like to know on what authority the noble Marquess rested these statements. The only authority on which such statements could be made, was the evidence; and that was not before their Lordships. How, then, could they judge whether the noble Marquess was right or wrong? If he were to give a peremptory contradiction to the statements of the noble Marquess, he should be liable to censure; and, therefore, he conceived, that the noble Marquess could not be held blameless for having brought forward as facts, matters which it was impossible he could verify. He would not impute any thing like wilful mistake to the noble Marquess, but if he thought fit to cast imputations, he ought to enable that House to judge for themselves, whether those imputations were just or not. His belief was, that the noble Marquess was mistaken; but how could he verify this assertion in the absence of the evidence? On the evidence, the whole case rested; and no doubt when it was produced, the noble Marquess would take an opportunity of going over the whole ground again. So far as he knew of the evidence, he believed the noble Marquess was in error from beginning to end, in all that he had stated; and this he would find, when the papers for which he had called were produced. He would not have said thus much, if he had not felt it to be his duty to contradict the extravagant statements in which the noble Marquess had indulged; but with respect to his own conduct in the affair, all he could say was, that when a recommendation was forwarded to him by the Lord-lieutenant, he had a right to act upon it without reference to the noble Marquess. Mr. Sheil was a highly respectable gentleman, and, although he might not possess as large a property as other magistrates, still his property was considerable. It was no objection to Mr. Sheil that there were enough of magistrates without him; and that was the only objection which the noble Marquess had urged against his appointment. The noble Marquess said, that his prognostications with respect to Mr. Sheil, were borne out by the evidence; but if it should turn out that the contrary was the case, why had not the noble Marquess attended the inquiry, as he might have done, in order to make good the charges he had brought forward? In conclusion, he must say, that he had scarcely ever witnessed a more unprecedented course than that which had been adopted by the noble Marquess that night in moving for these papers; and he could only add, that, if he was rightly informed, the statements made by the noble Marquess, so far as the charge against Mr. Fitzsimon and Mr. Sheil were concerned, were strongly denied by the evidence relating to the transactions themselves.

The Duke of *Wellington* said, that he could not agree with the noble and learned Lord who had just sat down, that the course taken by the noble Marquess on the present occasion, was very unusual—although it was one which might not, perhaps, be exactly in accordance with the Parliamentary rule. The noble Marquess had risen for the purpose of calling the attention of their Lordships to that which must ever be considered a very important subject by their Lordships—namely, the appointment of magistrates in Ireland, and the conduct of the noble and learned Lord with respect to those appointments. He held in his hands, the papers which had been moved for by the noble Marquess on a former occasion, and, in moving for others, the noble Marquess had taken occasion to advert to the conduct of the noble and learned Lord in the appointment of magistrates, and to the conduct of those magistrates. The noble Marquess had also moved for other papers, the object of which was to show what had been the nature of the conduct of the Irish Government with regard to appointments to the magistracy, as well as what was the state of society in Ireland, which was produced by those appointments. He found, that one of the gentlemen who had thus been appointed magistrates, having thought proper to place himself at the head of an illegal meeting in Ireland, held for the purpose of stimulating the destruction of property, which had ever been considered sacred by Parliament, had been dismissed from the magistracy by the Marquess of Anglesea. And yet some time afterwards the noble and learned Lord opposite had thought proper to appoint this very gentleman to the magistracy—contrary to the remonstrances of the lord-lieutenant of the county, the noble Marquess who had introduced this motion—and subsequently to the transactions complained of. [Lord *Plunkett*: The appointment was not, in any way, connected with those transactions.] He begged the noble and learned Lord's pardon; but no one could doubt that the appointments of both the gentlemen alluded to in this motion—appointments made in the teeth of remonstrances on the part of lords-lieutenant of counties—were nothing less than political appointments. He was prepared to prove it, if necessary, from the papers he held in his hand. They were recommended to be appointed to the commission of the peace by the Lord-lieutenant of Ireland himself—and were appointed in spite of the remonstrances of the lieutenant of the county in question. It appeared, that the Government had thought proper to order a party of police to preserve the peace in the county of Westmeath during the period of the elections, and that one of those gentlemen, although himself a magistrate of the county—had opposed himself to another magistrate, who was in the discharge of his duty, keeping the peace in a public-house in the county. Would any one say, that this was justice—or that this was the manner in which a just Government should be carried on? He only wished to justify the noble Marquess in bringing this case before their Lordships, a thing which the papers already produced fully justified him in doing. He was sorry to be under the necessity of referring to the subject; but he must say, that until Ireland should be governed with justice and fairness—they might give her either poor-laws or corporations, if they pleased; but they would not render her condition by any means so happy a one as he was most anxious and desirous to see it.

Returns ordered.

HOUSE OF COMMONS,

Tuesday, July 24, 1838.

MINUTES.] Bills. Read a third time:—Abolition of Imprisonment for Debt; Recovery of Tenements.

Petitions presented. By Mr. AGLIONBY, from Dumfries, against the Pilotage Bill.—By Lord W. BENTINCK, from Glasgow, in favour of the Bill for the Better Regulation of Municipal Corporations in Scotland.—By Mr. RICH, Sir E. SUGDEN, Lord G. SOMERSET, and Mr. M. PHILIPS, from various places, against the encouragement of Idolatrous Worship in India.—By Mr. M. J. O'CONNELL, from the Spirit Dealers of Killarney and Tralee, praying to be placed on the same footing with their fellow tradesmen in this country.—By Sir R. INGLIS, from the Dean and Chapter of Canterbury, against the Ecclesiastical Appointments Suspension; and from the county of Glocester, against the Grant to Maynooth College.—By Mr. HINDLEY, from Stockport, in favour of the Ballot.

GIBRALTAR LIGHTHOUSE.] The House went into Committee on the Gibraltar Light-house Bill.

On Clause 4, and on Question that the blank in it be filled up with one shilling,

Mr. *Hume* objected to the tax of one shilling upon all vessels passing Gibraltar being imposed. This country allowed 250,000*l*. for the support of light-houses, but the expense of the light-houses did not exceed 60,000*l*. or 70,000*l*. The remainder went into private hands. It was said it was applied in pensions to captains and seamen by the Trinity House. If it were necessary to apply such a sum in pensions, it ought to go under the proper head. The commerce of the country was already very much taxed. This clause was adding to the evil of giving to an irresponsible body like the Trinity House, additional power. He would ask the hon. Gentleman at the head of the Board of Trade on what principle it was that they proposed to extend the power of the Trinity House to Gibraltar? No Government ought to seek to give such powers to a self-elected body like the Trinity House. He should move the exclusion of the clause.

Mr. *Warburton* said, the Trinity House had come badly out of the inquiry on the subject of lighthouses. Why then was it to be selected for the purpose of superintending the Gibraltar lighthouse. The Ballast Board in Ireland and the Northern lighthouse commissioners went upon the regular and proper principle of apportioning their revenue to the actual cost of the lighthouses. Let one of these boards, then be chosen. He should support the motion of his hon. Friend the Member for Kilkenny.

Mr. *O'Connell* put in a claim on behalf of the Irish Belfast Board (of which he was a member), for that board had conducted itself best of any. It had diminished the taxation on the public, and its members asked no remuneration for their services, thus standing in proud contrast to the Trinity House.

Mr. *Poulett Thomson* said, that was not the time to discuss the rival merits of their lighthouse Boards. The Trinity House, however, had been proved before the Lighthouse committee to have conducted itself with great propriety; and a bill had been passed last Session, giving it additional powers. He did not think the board deserved the censure which had been heaped upon it. Now, with respect to the clause in question, his hon. Friend had asked why put this lighthouse under the Trinity House? The reason for doing so was, because Parliament decided two years ago that lighthouses should be put under that body, and the proposal now made was merely following out the precedent laid down in the case of Heligoland. His hon. Friend then objected to the toll, and said there was a surplus revenue at Gibraltar. If so it was carried to the account of the public, and therefore paying this charge out of the surplus revenue would be nothing more than making a charge on the public of the sum necessary to keep up this light. His hon. Friend in this was contending for the principle of all lights being paid by the country, on which principle the House did not agree with the hon. Member. The hon. Member said this was a mere trifle. He was perfectly aware of that. The country had erected the lighthouse, and all that was required was a small sum for the annual expense of maintaining it. The shipping interest were willing to pay these dues, and he had introduced the Bill at their request and with their sanction. He hoped the House would agree to the charge in the manner suggested.

Mr. *Wallace*, as a member of the committee two years ago, begged to remind the hon. Gentleman that it was then understood that in case any new lighthouse was built they were not to follow the track of the Trinity House. He wished to know what was to become of the surplus income of Gibraltar; was it to go into the coffers of the Trinity House? It was monstrous to collect a revenue in the shape of lighthouse duty, under the name of charitable purposes.

Mr. *Hume* said, that Gibraltar, since its capture, had been a free port, and the effect of the Bill would be to destroy that. He would put it to the House whether, for the sake of a paltry shilling, it would adopt such a clause. He wished to see the lighthouse erected, but he thought its erection should take place at the expense of the surplus revenue of Gibraltar, or the surplus revenue of the Trinity House.

The Committee divided on the original motion. Ayes 92; Noes 22—Majority 70.

List of the AYES.

Adam, Admiral
Archbold, R.
Baker, E.
Barnard, E. G.
Barrington, Visc.
Blackburne, I.
Blair, J.
Blennerhassett, A.
Bowes, J.
Bramston, T. W.
Broadley, H.
Brotherton, J.
Brownrigg, S.
Bruges, W. H. L.
Gampbell, Sir J.
Canning, Sir S.
Chute, W. L. W.
Clements, Lord Visc.
Craig, W. G.
Darby, G.
Divett, E.
Douglass, Sir C. D.
Dunbar, G.
Ebrington, Visc.
Fergusson, R. C.
Follett, Sir W.
Gibson, T.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grattan, J.
Grey, Sir G.
Hastie, A.
Hawes, B.
Hayter, W. G.
Hill, Lord A. M. C.
Hindley, C.
Hobhouse, Sir J.
Hogg, J. W.
Hope, hon. C.
Hope, G. W.
Houldsworth, T.
Howard, P. H.
Inglis, Sir R. H.
James, Sir W. C.
Jones, T.
Knight, H. G.
Lascelles, W. S.
Lefevre, C. S.
Lemon, Sir C.
Lockhart, A. M.
Lowther, J. H.
Lushington, C.
Lygon, hon. Gen.
Lynch, A. H.
M'Taggart, J.
Mahon, Visc.
Martin, T. B.
Morpeth, Visc.
Morris, D.
O'Brien, W. S.
Palmer, G.
Palmerston, Visc.
Parker, M.
Parker, R. T.
Peel, Sir R.
Perceval, Colonel
Phillpotts, J.
Ponsonby, C. F.
Praed, W. T.
Price, Sir R.
Pusey, P.
Rich, H.
Richards, R.
Rushbsook, Col.
Russell, Lord J.
Seymour, Lord
Sibthorpe, Col.
Sinclair, Sir G.
Stanley, Lord
Style, Sir C.
Sugden, Sir E.
Surrey, Earl of
Thomas, Colonel H.
Thomson, C. P.
Townley, R. G.
Troubridge, Sir E.
Turner, E.
Williams, W. A.
Wilmot, Sir J.
Wodehouse, E.
Wood, C. W.

TELLERS.
Maule, hon. F.
Stanley, E. J.

List of the NOES.

Aglionby, H. A.
Boldero, H. G.
Bridgeman, H.
Chalmers, P.
Codrington, Admiral
Dalrymple, Sir A,
Duncan, Lord
Hector, C. J.
James, W.
Kinnaird, hon. A.
O'Connell, D.
O'Connell, M.
Pechell, Capt.
Power, J.
Redington, T.
Somers, J. P.
Tennant, J. E.
Thornley, T.
Vere, Sir C. B.
Warburton, H.
Ward, H. G.

TELLERS
Hume, J.
Wallace, R.

Clause agreed to.

The remainder of the clauses were agreed to, and the House resumed.

EXPEDITION TO THE PERSIAN GULF.] Sir *Stratford Canning* wished to put a question to the right hon. Gentleman, the president of the Board of Control, and he was much mistaken if the right hon. Gentleman would not willingly embrace the opportunity of affording information to the public on a point of considerable importance, particularly to the commercial interests of the country. It had been known to commercial men for some days, that an expedition composed of several armed vessels, and having on board a body of 500 or 600 men, commanded by Colonel Sherriff, had sailed from Bombay to the Persian Gulf. The only conceivable object of such an expedition must have reference to Bushire, the most important port belonging to Persia on the Persian Gulf, or to the island of Karak, in the neighbourhood of that place. As both belonged to Persia, it was obvious that an expedition sent with the view of taking possession of any of those places must involve us in hostilities with that power. It was therefore very important to those who were connected with the trade of the country to know if the expedition was directed to objects of a kind likely to be attended with that consequence.

Sir *J. Hobhouse* had to state, that it was undoubtedly true that a small expedition had by this time at least sailed from Bombay for the head of the Persian Gulf, consisting of a frigate, a brig, two steamers, and a Government transport, having on board about 500 sepoys, commanded by the gallant officer named by the right hon. Gentleman. The right hon. Gentleman had stated what would be the result, supposing certain orders to have been given. He could only inform the right hon. Gentleman that the expedition had been sent to that quarter in consequence of a despatch received from the Governor-general of India by the Governor of Bombay, in which was stated the reason why the Governor-general thought it advisable to send such an expedition. The right hon. Gentleman knew that the East India Company had a resident at Bushire; he knew also that they had a resident at Bagdad he knew also that an important experiment had lately been tried in order to ascertain whether the navigation of the Euphrates was practicable. The right hon. Gentleman was perhaps also aware that our commercial relations with that part of the world had become much more extensive than formerly. It was in consequence of the political state of Central Asia that the Governor-general had thought it requisite for the protection of British interests to send that expedition to the port indicated by the right hon. Gentleman. He believed the right hon. Gentleman would think him right in declining to say anything further than that the expedition had sailed on the 2d or 5th of June, in consequence of instructions from the Government at home and the Governor-general of India.

Sir *Stratford Canning* was satisfied with the manner in which the right hon. Gentleman had answered his question, but he had one doubt remaining, which it was desirable to have removed. He did not think it was clear from the answer of the right hon. Gentleman whether the expedition was sent merely for general purposes, or with a specific object. Of course, if it had no specific object, any apprehension which might be entertained of an immediate change in the character of our relations with Persia would vanish. He hoped the right hon. Gentleman would consider himself at liberty to satisfy his doubts on this point.

Sir *J. Hobhouse* feared that his duty would not permit him to give any other answer than that he had already given. He had admitted the facts mentioned by the right hon. Gentleman, and he trusted when the proper time arrived that Parliament and the public would think the Governor-general of India perfectly justified in the course he had taken.

Subject dropped.

POOR-LAWS (IRELAND) LORDS AMENDMENT.] The order of the day was read for considering the Lord's amendments to the Poor Relief (Ireland) bill.

The *Speaker* said, that before the noble Lord (Lord John Russell) took up the consideration of the amendments to the present bill he owed it to himself to make a few observations to the House on the subject. The House was no doubt aware that when amendments were made in any bill sent up to the House of Lords which were considered at all likely to be an infringement of the privileges of this House, it was customary to communicate with the Speaker on the subject. It so happened, therefore, that he had been applied to by a very distinguished person in reference to this bill. In reply to questions which were put to him, he then said, that if his opinion were called for on the subject of these amendments he felt bound to say, that he considered them as an infringement of the privileges of the Commons' House. But, at the same time, as the bill was one of a very peculiar character, affecting not only the proprietors of the land but the great mass of the people of Ireland, and as the principle of rating was necessarily incidental to such a measure, he considered that if the privileges of this House were strictly pressed in such a case, they would almost tend to prevent the House of Peers from taking such a measure into its consideration in a way that might be on all grounds advisable. On referring to precedents he found two instances, namely, those of the English Poor-law Bill, and the English Municipal Corporations Bill, in which amendments were made by the House of Lords which were not strictly in conformity with the privileges of the House of Commons. Referring to those precedents, it was for the House to consider whether, in reference to the present bill, they should throw out the bill as amended by the Lords, and then introduce another bill in which those amendments might be incorporated; or whether they should waive the infringement of their privilege, and proceed to the consideration of the Lords' amendments. As the authorised guardian of the privileges of the House, he had thought it right to explain his conduct on the present occasion, which he trusted would meet with the approval of the House; at the same time he must add, that he thought the privileges of this House would be best secured by being not too far pressed.

Lord *John Russell* said, that the House he was sure, would feel itself much indebted to the Speaker for the anxiety with which he had attended to the protection of their privileges. He agreed entirely with the right hon. Gentleman, that in cases of bills of this description, in which taxation was not the sole but rather an incidental object, any latitude consistent with the due observance of the privileges of this House should be allowed to the

House of Lords in their legislative functions. On looking back at the English Poor-law Bill it would be found that there were amendments proposed in that bill by the House of Lords as fully connected with the subject of rating as any in the present bill. He hoped, therefore, that the House would enter upon the consideration of these amendments, which were, doubtless, framed with the view rather of forwarding the objects of the bill than otherwise. Perhaps there never was a bill of such vast public moment which was agreed to by the House of Commons in the absence of all party feeling, and by so large a majority, the third reading of it having been carried by a majority of 234 against 59. The bill had since received the mature consideration of the House of Lords, and, with the insertion of some amendments, had been agreed to. On the whole, considering the importance of the subject, and the vast number of provisions which were required for the purpose of carrying it into effect, and the diversity of interests and opinions which must necessarily be involved by it, even after the principle of the measure was sanctioned, he must say, that the amendments which the House of Lords had made in this measure were less in number and importance than might have been expected. Two or three of these amendments, however, were of considerable importance. One of the most important was that whereby an approach to the law of settlement was attempted. It was proposed by this amendment to divide the country into electoral districts, in order that, whenever a person was received into the workhouse of the union, the expense of his maintenance should be charged to the particular district to which he belonged. Whilst this was proposed, however, the question of residence was not to be raised, and there would be no exclusion of parties on account of their settlements, to whatever part of the kingdom they might properly belong. He considered, therefore, that this amendment was not liable to the great inconvenience which the law of settlement generally led to, namely, the prevention of the circulation of labour from one part of the country to another; and, therefore, although he felt much doubt as to the practical effect of this provision, which he was inclined to think would remain in a great measure inoperative, and though he certainly should not have proposed it himself, he should propose that the House should now agree to it. The principle of the amendment was clearly to create a feeling of responsibility and of interest in all parties to attend to the general concerns of their respective districts, which might have a wholesome tendency. He should recommend, therefore, that the House should agree to this amendment with some verbal alterations which he had to propose in it. There was another clause inserted for the punishment of desertion of the wife and child by the husband and father. There was, however, a very material amendment with respect to which it was very probable, that the Speaker might have to consider whether or not it came within the privileges of that House. It was, in the first place, an omission of a clause inserted in that House with regard to 5*l.* tenements; and, in the second place, a substitution of another clause with respect to the charge which might be taken by the owners on the payment by rates of such tenements. According to the bill as it went up from that House, the occupiers of tenements under the value of 5*l.* were not in the first instance to pay the rate, but that they should have the power of charging the whole rate on the landlords. They were, therefore, *in limine*, exempt altogether from the rate. Now, the House of Lords had determined that these persons should, in the generality of instances, pay the rate; at the same time they did not alter the total amount of rate, whatever it might be, which was settled by the board of guardians on application to the commissioners, and they proposed another clause by which an arrangement took place between the landlords and tenants with regard to the small holdings. What the House of Lords proposed was in substance, that the owner and the tenant should make an arrangement between themselves by which the owner might agree to a certain deduction not exceeding ten per cent. for the sum to which the small tenements were liable, and with the approbation of the guardians, and the sanction of the commissioners, that such payment by the owners should exempt the occupiers of tenements. He thought it would be a very vexatious and inexpedient proceeding if they were to insist on their privilege as a ground of objection to this alteration. He thought it one of those alterations which did not touch the general question of taxation. It was not with the view of exempting those persons as being a class which ought to be free from such a demand, that the clause was originally introduced. It was introduced with the view of the general working of the Poor-law: it was introduced with the view in the first place to the collection of the rates, and, in the next place, to the general formation of a body by which the charges should be collected, and not at all with reference to the class by whom the rates ought generally to be paid. In the same view, that was, looking to the general object of the bill, the relief of the poor in Ireland, the House of Lords framed a different clause, and proposed that no holders of property should be exempt from the payment of rates. Now, it was a question of very considerable doubt in that House—indeed there was no point on which there existed, both on the one side and the other, so much diffidence as to the adoption of either alternative—whether the class which the Lords had included should be exempt from rating or not. His noble Friend the Member for Leitrim (Lord Clements), who took a great interest in this subject, and who had shown as well by his writings as what he delivered in that House, that he made himself fully master of the whole question, as it might affect the future condition of Ireland, was strongly and decidedly of opinion that there should not be a positive and absolute exemption of the occupiers, even of the smallest description of holdings from the payment of rates. The noble Lord contended—and although he came to a different conclusion, he felt there was great weight in the argument—that it would be difficult to form a large body of rate-payers without admitting such small holdings, and that the payment of rate would make those subject to it take an interest in the well-working of the measure, and the good and frugal administration of the rates, which in poor districts could not be expected without such a distribution of the burden. The House of Lords had taken a view similar to that of his noble Friend, and considering that at the time the measure was discussed here, there were great doubts on this provision, he did not think it one upon which a difference of opinion should be raised between the two Houses, and he should agree accordingly to the amendments proposed by the House of Lords. There were some alterations made in the scale of rating to which he should call attention when he came to that part of the bill. An alteration, too, of considerable importance was made in the schedule of the bill, as that which had passed that House, was changed for one much more complicated, in which there were no less than thirteen or fourteen classes of rates, taxes, and public charges. On looking over the schedule, although he agreed that it might be desirable to have one containing more particulars and more headings than those of the original bill, yet he did not think it necessary to have so many as those proposed by the House of Lords, and he was of opinion that such a number would be attended with difficulty in the working of the measure. Therefore, not omitting any essential particulars of the schedule passed by the House of Lords, he should propose one more simple. Having now stated the general alterations made in the bill, he did not think that any of these alterations went to impugn the principles established by that House, nor that there was any thing in the act generally which should induce them to refuse to consider and accept the greater portion of the amendments. The Lords had not introduced either out-door relief, nor, on the other hand, confined the relief merely to persons who were lame, disabled, and old. In short, they adopted the principle laid down by that House in confining relief to the destitute generally, and limiting that relief altogether to that of in-door. They had likewise adopted the whole plan for the working of the measure under the control of commissioners. They had made one alteration with respect to the office in Dublin, which, practically, he thought, would have no effect, inasmuch as they did not exclude a provision in the original bill for obliging a commissioner or assistant commissioner to be resident in Dublin. The noble Lord concluded by moving, that the amendment he had referred to, be agreed to.

On the 11th Clause,

Lord *J. Russell* observed, that he had rather an important alteration to propose with regard to this clause. A very proper insertion had been made by the House of Lords, for the purpose of giving any one commissioner the power of acting for the board and making general rules; for there might be cases, as there had already been cases in this country, in which it would be very useful if the commissioners had the power of delegating their powers. It sometimes happened that one of the commissioners was obliged to go to a distance, and great delay was caused by the necessity of forwarding him papers, and obtaining his assent to some step which required to be promptly taken. The House of Lords had limited this power of acting for the body, to the commissioner resident in Ireland, but he should propose to leave it to any one of the commissioners, without reference to his residence; and in order that there should not be too great a relaxation of their authority in acting separately, he intended that they should not be allowed to do so without the approbation of one of her Majesty's principal Secretaries of State.

Clause, as amended, was agreed to.

The greater part of the Lords' amendments were also agreed to, and a committee appointed to draw up reasons to be stated to their Lordships, in a conference for not agreeing to others.

REGISTRATION OF ELECTORS.] The *Attorney-General* moved the third reading of the Registration of Electors Bill. Bill read a third time. The hon. and learned Gentleman then said, he had framed a clause, with respect to the admeasurement of distances, which he had communicated to the hon. Member for Aylesbury, who thought it was one in which both sides of the House would concur. Lord Ellenborough and the Court of King's Bench had decided, that the distance should be measured by the nearest road, and this House had done the same. There were three legislative enactments and two judicial decisions recognizing the propriety of the mode of admeasurement by the nearest road, by land or water. There were many difficulties and inconveniences attending the mode of admeasurement by a mathematical line or crow's flight, all of which would be obviated by the addition of the clause which he proposed to introduce. It would also remove all doubt and uncertainty about the state of the law, and put an end to conflicting decisions. The hon. and learned Gentleman concluded by moving the addition of a clause to the effect, that in all cases in which it shall be necessary to compute the distance of seven miles from the borough to the voter's residence, such computation, shall be made by the nearest road, by land or water.

Colonel *Sibthorp* opposed the clause. The mode of admeasurement by the crow's flight or mathematical line was preferable, and was that which should be adopted, and such was the decision of the present Baron Foster, of the Irish bench, and also the opinion of Mr. Thesiger, which he considered quite equal to that of the hon. and learned Gentleman opposite, or of any other Member of the profession. He would move the insertion of a clause in accordance with this view.

The House divided on the clause. Ayes 50; Noes 18.—Majority 32.

List of the AYES.

Adam, Admiral
Aglionby, H. A.
Ball, right hon. N.
Bannerman, A.
Barnard, E. G.
Blake, W. J.
Bridgeman, H.
Briscoe, J. I.
Brodie, W. B.
Brotherton, J.
Bruges, W. H. L.
Clayton, Sir W. R.
Crawley, S.
Crompton, Sir S.
Curry, W.
Ferguson, R. A.
Finch, F.
Hall, Sir B.
Hayter, W. G.
Heathcoat, J.
Hector, C. J.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Howick, Viscount
Hume, J.
James, W.
Jervis, S.
Labouchere, H.
Lefevre, C. S.
Lushington, Dr.
Maule, hon. F.
Morris, D.
Parker, J.
Parnell, Sir H.
Pechell, Captain
Phillpotts, J.
Power, J.
Rickford, W.
Russell, Lord J.
Stock, Dr.
Style, Sir C.
Thornely, T.
Townley, R. G.
Troubridge, Sir E.
Turner, E.
Vigors, N. A.
Warburton, H.
Yates, J. A.

TELLERS.
Campbell, Sir J.
Wood, C.

List of the NOES.

Blennerhassett, A.
Coote, Sir C. H.
Darby, G.
Estcourt, T.
Goulburn, H.
Grant, F. W.
Herries, J. C.
Holmes, W.
Hope, hon. C.
Hope, G. W.
Kemble, H.
Lockhart, A.
Lucas, E.
Palmer, G.
Trench, Sir F.
Vere, Sir G. B.
Vernor, Colonel
Wood, T.

TELLERS.
Round, J.
Sibthorpe, Colonel

Bill passed.

POST-OFFICE.] The Chancellor of the Exchequer moved, that the House resolve into a Committee on the Post-office Bill.

Colonel *Sibthorp* opposed the motion, because he thought it inconvenient to discuss a bill effecting a great change in one of the public establishments at so late a period of the Session, and because he suspected that the Government brought forward the measure, which created new appointments, not from considerations of public advantage, but for the purpose of giving themselves the dispensation of patronage. Three new commissionerships were to be created by the bill, and they were to be patent offices; so that, however badly the duties might be performed, the holders of them could not be removed. This change, which would throw an additional burden of 1,900*l.* on the country, was proposed without any good reason, and he should therefore move, by way of amendment, that the bill be taken into consideration that day six months.

Mr. *Goulburn* thought the change proposed by the bill called for some statement from the Government to justify it. If it were intended to appoint the commissioners for life, he should certainly object to such a proposition.

The *Chancellor of the Exchequer* said, the Government could not fairly be accused of introducing this bill from a desire of patronage, for their object was to make a change the necessity for which had been long felt. So long ago as in 1797, under Mr. Pitt's Government, the change now proposed had been recommended, and the consolidation of the Scotch and Irish post-offices with the English Post-office since that period made the change more requisite. Under Lord Liverpool's Government, too, a report in favour of this change was presented by the commission of which Lord Wallace was the head. He quite concurred with the right hon. Gentleman in thinking that the head commissioner should not be a permant officer, the great object being to obtain Parliamentary responsibility. But the other two commissioners should be permanent, in the same manner as the subordinate commissioners of the Woods and Forests, or the official under secretaries of state for the various departments. A more effective system of post-office administration was absolutely necessary. As an authority on this subject he might quote the Duke of Richmond. If ever there was an individual qualified to give perfect satisfaction as Postmaster-General, it was the Duke of Richmond; and yet, notwithstanding the great energy of mind and assiduity of application which he brought to the office, his administration was far from giving satisfaction, owing entirely to the fundamentally defective system which prevailed in that department. He hoped the bill would be allowed to go into Committee, especially as it had passed the House last Parliament, while its principle had been sanctioned by at least five successive commissions.

Sir *R. Peel* was not content to rest this question entirely upon authority. The Duke of Richmond had been referred to by the right hon. Gentleman as a high authority—the man of all others best fitted to administer the Post-office department; and yet what course had the noble Duke taken with respect to this very bill? When it reached the House of Lords last year, he gave it his most decided opposition. Then the right hon. Gentleman cited the commission of 1797, which reported in favour of the principle of this bill; but if Mr. Pitt approved of it, why did he not adopt it? Why had the successive Governments since that time not carried the principle into effect? The right hon. Gentleman's reference to authority upon this matter had not the slightest weight or applicability. If it was thought necessary to have a Parliamentary officer with a seat in that House, instead of the Postmaster-General, why was the same principle not to be applied to the other revenue boards of Customs and Excise? At present the Post-office was administered by a political officer—the Postmaster-General, with a salary of 2,500*l.* per annum, and a secretary; now it was proposed to have three Commissioners, the first having 2,000*l.*, and the other two 1,200*l.* each, with, he presumed, a secretary besides. He objected to the increase of expense from 2,500*l.* to 4,400*l.*, and he very much doubted whether the advantage of having the head Commissioner, a Member of that House, subject to change with different Administrations, would be anything like an equivalent. He thought the bill very clumsily drawn; the superfluous phrases with which it abounded, were quite amusing. He should oppose the committal of the bill.

Mr. *Labouchere* said, the present system of administering the Post-office, was a most vicious one, and had been condemned by every man who had paid any attention to the subject. The best system for the management of the Post-office, in his view, would be to place it under the charge of a Commissioner, who should devote his whole time and energies to the duties of his office, and have a seat in that House, in order that he might be immediately responsible to it. He was rather surprised to hear the right hon. Baronet lay so much stress on the difference between the salary of the Postmaster-general, and those of the proposed Commissioners. When the management of a revenue of 1,500,000*l.* and the whole correspondence of the country, was to be considered, he thought it the most miserable impolicy to regard the difference of 1,000*l.* The right hon. Baronet had talked of the good old system under which the affairs of the Post-office were formerly managed. He would only remind the House that in those days, the late Secretary for the Post-office had an income of 5,000*l.* or 6,000*l.* a-year, which was more than was now sought for the salaries of all the proposed Commissioners. There were also two Postmasters-general with 2,500*l.* a-year, two more for Ireland, and one for Scotland. He did not think that this department could be compared to the Customs or Excise. Besides the other important functions fulfilled by it, it was often engaged in negotiations with foreign Governments, to which there was nothing analogous in the business of the other Revenue boards. As to the objection that the office of the Chief Commissioner was to be of a political nature, he did not think it would be right or fair to any Government to debar them from placing at the head of such a department as the Post-office, some political friend in whom they might have confidence. Whether or not the proposed change were adopted, of this he was quite sure, that no system could be worse than that which now existed, and if they wished to place it on a better footing, they should begin by reforming the office of the Postmaster-general.

Sir *R. Inglis* defended the memory of the late Secretary of the Post-office from the aspersion cast upon it by the right hon. Gentleman. He thought that respect to his memory would have been sufficient to ward off their attacks, and he regretted that more good feelings had not been evinced than to make them. There was no department of the public service better managed than the Post-office under Sir F. Freeling, and the public had never a better servant.

Mr. *Labouchere* explained: He had said nothing in diparagement of Sir F. Freeling, he had not even mentioned his name, and any observations he had made were directed against the system and not against those individuals who may have had the management of it.

Captain *Boldero* said, that the sum of 5,000*l.* or 6,000*l.* a-year enjoyed by Sir F. Freeling, was a great part of it, in lieu of perquisites appertaining to his office, which he had conditionally relinquished. He had held that most onerous and responsible situation for a period of fifty years, and a better servant the public never had. It was too bad, therefore, that he should now be disparaged, and the feelings of his family hurt by the observations of the hon. Member.

Mr. *Labouchere* again denied, that he had said anything disparaging of Sir F. Freeling, and asserted, that in anything he had said, he had not the slightest intention of reflecting for a moment on his memory. He did not make the remotest charge against him, and he believed, that the Post-office and the public had derived benefit from his services.

Mr. *Warburton* thought it would be a great improvement to issue a temporary commission for two or three years, to superintend the great changes now taking place in our internal system of communication, and to prevent the Post-office from becoming exclusively a revenue department, instead of a great public engine for facilitating and increasing the intercourse between various parts of the country. No Administration could hold place which resisted the demands of the public for a speedier and cheaper system of conveying letters.

Mr. *Wallace* did not think it would be for the advantage of the Post-office that the Chief Commissioner should have a seat in that House, and could not see, if that principle were recognized, why the members of the Board of Customs or Excise, should not also have seats. With regard to putting this office under a commission, he believed that it was absolutely necessary; he believed that the time had come when a great change must take place, and really working men be put into that department. They must no longer have the absurdity which ran through the whole establishment of the Post-office. He should most cordially support the proposition for a commission, however much he might object to some of the details.

The House divided on the original motion. Ayes 81; Noes 56: Majority 25.

List of the AYES.

Adam, Admiral
Aglionby, H. A.
Archbold, R.
Baines, E.
Ball, rt. hon. N.
Bannerman, A.
Bellew, R. M.
Bernal, R.
Blake, W. J.
Bowes, J.
Bridgeman, H.
Briscoe, J. I.
Brodie, W. B.
Brotherton, J.
Campbell, Sir J.
Chalmers, P.
Childers, J. W.
Clayton, Sir W. R.
Conyngham, Lord
Craig, W. G.
Crompton, Sir S.
Curry, W.
Dalmeny, Lord
Divett, E.
Elliott, hon. J. E.
Evans, G.
Finch, F.
Fitzroy, Lord
French, F.
Gordon, R.
Grattan, J.
Hawkins, J. H.
Hayter, W. G.
Heathcote, J.
Hector, C. J.
Hindley, C.
Hobhouse, T. B.
Hodges, T. L.
Howick, Lord Visct.
Hume, J.
James, W.
Jervis, S.
Kinnaird, hon. A.
Labouchere, H.
Lefevre, C. S.
Lemon, Sir C.
Martin, T. B.
Melgund, Viscount
Mildmay, P. St. J.
Morpeth, Lord
Morris, D.
Muskett, G.
O'Brien, W. S.
O'Connell, J.
O'Ferrall, R. M.
Parker, J.
Parnell, Sir H.
Pechell, Captain
Phillpotts, J.
Redington, T. N.
Rice, rt. hon. T. S.
Rolfe, Sir R. M.
Salwey, Colonel
Somerville, Sir W. M.
Strangways, J.
Stock, Dr.
Style, Sir C.
Thomson, C. P.
Thornely, T.
Tollemache, F. J.
Townley, R. G.
Troubridge, Sir E. T.
Vigors, N. A.
Wall, C. B.
Wallace, R.
Warburton, H.
Westenra, J. G.
Wood, C.
Wood, Sir M.
Wood, G. W.
Yates, J. A.

TELLERS.

Maule, hon. F.
Stanley, E. J.

List of the NOES.

Blackburne, I.
Blennerhassett, A.
Boldero, H. G.
Bramston, T. W.
Broadley, H.
Bruges, W. H. L.
Canning, Sir S.
Chandos, Marquess of
Chute, W. L. W.
Clive, Lord Viscount
Darby, G. E.
Eastnor, Lord Visct.
Ellis, J.
Eastcourt, T.
Farnham, E. B.
Gibson, T.
Gladstone, W. E.
Gore, O. W.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Herries, J. C.
Hodgson, F.
Hog , J. W.
Holmes, W.
Hope, hon. C.
Hope, G. W.
Kemble, H.
Knightly, Sir C.
Lockhart, A. M.
Lowther, Colonel
Lowther, J. H.
Lucas, E.
Lygon, hon. Gen.
Mackinnon, W.
Mahon, Lord
Neeld, J.
Palmer, R.
Palmer, G.
Parker, M.
Parker, R. T.
Peel, rt. hon. Sir R.
Pigott, R.
Praed, W. M.
Richards, R.
Round, J.
Rushbrooke, Colonel
Sandon, Lord Visct.
Sheppard, T.
Sinclair, Sir G.
Somerset, Lord G.
Trench, Sir F.
Vere, Sir C. B.
Verner, Colonel
Wodehouse, E.
Wood, T.

TELLERS.

Sibthorp, Colonel
Inglis, Sir R. H.

House in Committee, first Clause agreed to.

On the second Clause, fixing the salaries of the Commissioners,

Colonel *Sibthorp* said, he saw no reason why the aggregate salaries of the Commissioners should exceed the sum paid at present to the Postmaster-general, and he had resolved to move accordingly, and take the sense of the House upon it.

Mr. *Wallace* thought the salary of the Secretary might be added, but if the question came to a division, he should certainly vote with the hon. Member for Lincoln.

Sir *R. Peel* was ready to take the sense of the House as to whether there should be any commissioners; but if there were to be commissioners, he would maintain that they ought to be sufficiently remunerated; he therefore could not support the proposition of his hon. Friend the Member for Lincoln, because, though perfectly ready to determine that the conduct in chief of the Post-office should be vested in an individual, he was unwilling to seek the attainment of that object indirectly. If the House resolved that there should be commissioners, he thought their remuneration ought to equal that of other commissioners placed at the head of public departments; he should therefore recommend that the Chief Commissioner have 2,000*l.* a-year, and each of the other commissioners 1,200*l.*, of course still adhering to his original opinion that it would be much better to have one efficient chief officer.

Clause 5, as amended, was agreed to.

On Clause 6, enacting that the person first appointed commissioner may sit in the House of Commons as a Member,

Mr. *Hume* said, that when the Bill was originally introduced, he strongly pressed his objection to this clause. He did not see the utility, much less the necessity of it, feeling as he did, that the time of the commissioner would be much better occupied if directly devoted to the affairs and arrangements of the Post-office, than in answering questions in that House. He should therefore move, that this clause be struck out.

The *Chancellor of the Exchequer* said, according to the proposed plan, there was a necessity to have a Member in that House to represent the office.

Colonel *Sibthorp* agreed with the hon. Member for Kilkenny, that there was no necessity of having a gentleman sitting at the elbow of the Chancellor of the Exchequer as a representative of a public office, merely to answer questions, to which, judging from past experience, as regarded Her Majesty's present Ministers, they would in all probability get very unsatisfactory answers.

Sir *R. Peel* thought that the reasons, upon the whole, preponderated in favour of the head-commissioner being a Member of the House of Commons.

Mr. *Labouchere* hoped, that the House would agree to this clause, which he thought was the most essential part of the bill.

The House divided on the question, that the clause stand part of the bill.

Ayes 69; Noes 37: Majority 32.

List of the AYES.

Acland, Sir T. D.
Adam, Admiral
Aglionby, H. A.
Archbold, R.
Ashley, Lord
Ball, rt. hon. N.
Baines, E.
Blake, W. J.
Brabazon, Lord
Bramston, T. W.
Brodie, W. B.
Brotherton, J.
Campbell, Sir J.
Cavendish, C.
Clayton, Sir W. R.
Clements, Lord Visc.
Craig, W. G.
Dick, Q.
Elliot, hon. J. E.
Estcourt, T.
Finch, F.
Fleetwood, H.
French, F.
Gibson, T.
Gordon, R.
Graham, Sir J.
Grant, F. W.
Grattan, J.
Hardinge, Sir H.
Hawkins, J. H.
Heathcoat, J.
Hobhouse, T. B.
Hodges, T. L.
Hodgson, R.
Hogg, J. W.
Holmes, W.
Hope, hon. C.
Hope, G. W.
Howard, P. H.
Howard, Sir R.
James, W.
Lemon, Sir C.
Lucas, E.
Martin, T. B.
Melgund, Visc.
Morpeth, Visc.
Morris, D.
O'Connell, J.
O'Ferrall, R. M.
Parker, J.
Peel, rt. hon. Sir R.
Pinney, W.
Redington, T. N.
Rice, E. R.
Rolfe, Sir R. M.
Sandon, Lord Visc.
Stock, Dr.
Strangways, J.
Strutt, E.
Thomson, C. P.
Townley, R. G.
Troubridge, Sir E.
Verner, Colonel
Vigors, N. A.
Warburton, H.
Westenra, J. C.
Williams, W. A.
Wood, G. W.
Wood, T.

TELLERS.
Labouchere, H.
Steuart, R.

List of the NOES.

Blackburne, I.
Boldero, H. G.
Broadley, H.
Bruges, W. H. L.
Canning, Sir S.
Chalmers, P.
Clive, Lord Visc.
Darby, G.
Douglas, Sir C. E.
Dunbar, G.
Ellis, J.
Gladstone, W. E.
Gore, O. W.
Goulburn, H.
Greene, T.
Hayes, Sir E.
Henniker, Lord
Hillsborough, Earl
Ingestrie, Visc.
Kemble, H.
Lascelles, W. S.
Lockhart, A. M.
Lowther, Colonel
Mackinnon, W.
Mahon, Visct.
Neeld, J.
O'Brien, W. S.
Parker, R. T.
Pusey, P.
Rose, Sir G.
Rushbroke, Colonel
Salwey, Colonel
Somerville, Sir W. M.
Thornely, T.
Trench, Sir F.
Vere, Sir C. B.
Wallace, R.

TELLERS.
Hume, J.
Sibthorp, Colonel

Clause agreed to.

Remaining Clauses agreed to.

The House resumed.

HOUSE OF LORDS,

Wednesday, July 25, 1838.

MINUTES.] Bills. Read a first time:—Recovery of Tenements; Registration of Electors; Arms and Gunpowder (Ireland); Constables on Public Works; Turnpike Acts Continuance; and Turnpike Acts Continuance (Ireland).—Read a third time:—Conveyance of Estates; and Dublin Police.

Petitions presented. By Lord WHARNCLIFFE, from Wesleyan Methodists of Whitby, Rugeley, Yoxhall, and various other places, and by the Earl of DEVON, from Penryn, for the prevention of Idolatry in India. [A Conference was held with the Commons on the subject of the Lords Amendments to the Poor Relief (Ireland) Bill, to which the Commons had not agreed, and the result reported to the House.]

HOUSE OF COMMONS,

Wednesday, July 25, 1838.

MINUTES.] Bills. Read a second time:—Entails (Scotland).—Read a third time:—Turnpike Acts Continuance; Turnpike Acts Continuance (Ireland); Arms and Gunpowder (Ireland); Administration of Justice (New South Wales); Constables on Public Works.

Petitions presented. By Mr. A. CHAPMAN, from the Wesleyan Methodists of Whitby, by Mr. PHILLPOTTS, from Gloucester, and by Colonel SIBTHORP, from Lincoln, against Idolatry in India.—By Mr. HUME, from the Distillers of Kilkenny, against the present system of Spirit Licences in Scotland.—By Mr. WALLACE, from the Chamber of Commerce of Greenock, for an Alteration in the Trading Companies Bill.—By Mr. G. KNIGHT, from Macclesfield, against the Sale of Beer Act.

NAVY OFFICERS.] Sir *E. Codrington* rose for the purpose of calling the attention of the House, to the injustice done to the officers of the navy compared to those of the other branches of the public service. He was aware that this was a subject, that had hitherto not been listened to by the House very favourably, but he hoped the time was not far distant when it would be attentively considered. The Parliament would be forced to take it up, for at present the navy was in a most inefficient state. If there were any occasion to equip a large fleet such was the condition of our ships, and such the destitution of our dock yards, that he did not think, we could send ten sail of the line to sea. But his object was to call the attention of the House to the naval as compared to the civil department. A good deal had been said upon the discussion of the Pension List, about the taking away of pensions, that had been hardly earned. Those observations ought to be applied to the naval profession. There was not any department of the service of the country in which persons were required to perform more duties than in the navy. Now in order to show the injustice done to the navy, he would state that an Admiral's half-pay was 376*l.* 10*s*; his widow's pension, if in distress, was 120*l.* a year, while in many instances he could mention in the civil service, persons retired with a pension of 1,000*l.* a year. He found that a deputy Judge-Advocate, who had retired, did so upon an allowance of 900*l.* a-year, whereas a Vice-Admiral had only 593*l.* and a full Admiral 766*l.* Now he did not say, that these gentlemen were too well paid; but if they were not, then the others — the veterans in the service— had too little. Again, an officer was obliged to pay, all his life, to what was called a Widow's fund; yet when he died, the widow, according to Admiralty law, had no claim whatever upon the fund, unless she was in distress, and had a less income than 200*l.*; and even that allowance was taken away upon a second marriage, which order had led to much immorality. He found an instance of a first clerk to the Secretary of the Customs retired on an allowance of 550*l.* while a Captain in the navy retired after a service of twenty-eight with an allowance of only 264*l.* 12*s.* 6*d.* Why, he demanded, should these things be? It was gross injustice and ought to be corrected, for sooner or later if continued, it would lead to most dangerous, and disastrous results. There was a gentleman who had served as a clerk in the Admiralty, and afterwards as secretary in the Victualling Office—he received, on retiring, 667*l.*: while an Admiral on his retiring, received only 766*l.*, and a Vice-Admiral only 593*l.* He could not understand why it was, that the officers of the navy, who had to go through so many difficulties and privations, and who, if they were wounded, received no compensation, should be placed on a lower footing than any other class of persons. He remembered a speech of Lord Castlereagh in which the noble Lord said the Admiralty had no right to interfere with the pay which was allotted for a particular purpose. The masters in the navy were also very unpleasantly circumstanced—there was a great unwillingness to making acting masters full masters, as they immediately went on being advanced to a rank which ensured them half-pay into some other service rather than remain in the navy. What inducement did the House think was given to those men with a pay of 5*s.* a day to go to sea, where they might be for years on a foreign station, and whose outfit would cost them from 100*l.* to 150*l.*? Why the total amount of the increase was 3*d.* per day. It was clear, too, that surgeons in the navy were not placed upon so good a footing as surgeons in the army. A surgeon in the army had more half-pay after twenty-five years' service than a surgeon in the navy after twenty-nine or thirty years' service. Since the year 1813 no less than 100 surgeons in the army had been promoted to a higher rank, while only one surgeon in the navy had been promoted. How was this occasioned? Why by the general injustice that was done to the navy. He next came to the case of the pursers, and the late alterations had put them in a worse situation than they were in before. He remembered that it was the practice to give something handsome to secretaries, but now men who had been secretaries, fully as important a situation as the Secretary of the Admiralty, intrusted with most important documents, and serving with great credit to themselves, were obliged to retire on 5*s.* a-day. The situation of half-pay officers was, if possible still more deplorable. Whatever might have been the services rendered by them to their country, these unfortunate men were liable to be struck off the half-pay list by the Admiralty without any investigation being had, or any opportunity given of bringing evidence in mitigation of charges cast upon them. This power on the part of the Admiralty was one which ought not to be suffered to continue. It was too liable to abuse not to be abused. In his opinion that was most discreditable to the Government. The gallant Member went on to quote a declaration of Lord Howick's as to the injustice of punishing officers for alleged misconduct, which was only proved on hearsay, and after an interval of ten or fifteen years. An officer whose case he had undertaken to bring before the House, had been accused after a period of eleven years had elapsed; and he was afraid, that the same justice would not be dealt to him as was dealt to civilians. Again the noble Lord Stanley in his speech on the pension list had made an eloquent appeal on behalf of veteran officers, or the widows and orphans of gallant men, and he must therefore express a hope, that the noble Lord would transfer his sympathies from these pensioners to the deserving officers of the navy. He could not conclude without offering one remark on the subject of prize money. He was convinced there was some great mistake in the principle upon which prize money was distributed. Perhaps the House was not aware, that most of the prize money taken in the last war, was from officers venturing to seize neutrals on the chance of their being condemned. Some alteration ought clearly to be made with a view of putting an end to these very dangerous experiments. In conclusion the hon. and gallant Member moved, that a select Committee be appointed to take into consideration the case of the naval officers compared to the other branches of the public service.

Mr. *C. Wood* said, he did not intend to follow his hon. and gallant Friend through the various details which he had given, and which he (Mr. C. Wood) must say the hon. and gallant Gentleman had contrived to misrepresent most completely; of course it was undesignedly, but so it happened, that the hon. and gallant officer had most ingeniously misrepresented the whole state of the case in reference to every class of officers. Now, his reason for opposing the motion was this—early this Session a commission was appointed to take this very subject under their consideration. He did not think, therefore, that they ought to appoint a Committee of that House for the purpose of effecting the self-same object, for the commission, as he conceived, fully embraced the whole subject of the pay and rewards of officers of the army, navy, and marines. But before he proceeded further, he must say, that there never was an assertion more utterly unfounded than that of the hon. and gallant Officer, with regard to the present state of the navy. He believed, that the service never was in a better state than at that moment. They had twenty sail of the line at sea, and he would venture to say, that if they liked they could send out ten times that number of ships, if they could find men to man them. Nothing, therefore, could be more unfounded than the observations of his hon. and gallant Friend on this part of the subject. But in fact, the mistakes of his hon. and gallant Friend were so great, and so many, that he hardly knew what assertion to contradict, unless he contradicted them all. With regard to the case of lieutenants in the navy, what was the fact? Why, that a certain number of lieutenants who wished to have rank—that was to say, nominal rank only—without an increase of pay, were listened to by the Admiralty and their request granted. Yet the hon. and gallant Officer complained, that an injustice was done, because pay was not given—not to these, but—to certain other persons! A more complete *non sequitur* could not be stated. With regard to the removal of officers by the Admiralty, he was not there to defend the present board for no one accused them; but as for the assertion of the hon. and gallant Officer with respect to former boards of Admiralty, or, that they had ever removed a man from the navy list without a full and complete inquiry, it was wholly without foundation. He had gone through the whole of the cases lately, and he was, therefore, able to speak decidedly on the subject. He would state what the practice of the Admiralty was, in cases of this kind, and thus he trusted he should remove the impression which the assertions of the hon. and gallant Officer were calculated to leave upon the House. With regard to the case of Mr. Booth, which had been so repeatedly brought forward by the gallant Admiral, how stood the facts? That officer had caused to be laid before the Admiralty certain documents, which, from their inaccuracy, were considered to be forgeries, and the result was, upon the fullest inquiry the Admiralty could make upon the subject, this gentleman was struck off the list. On reference, however, to Lord Exmouth, under whose command the officer had been, it appeared, that the inaccuracy which had originated the suspicion had been committed by Lord Exmouth himself, and the day after this, information had been received, an order was given for restoring Mr. Booth to the list. And this occurred within a few days of a former motion of the gallant Officer in which he brought the subject before the House. The circumstances of the case, therefore, clearly proved, that the course the Admiralty had adopted on that occasion had not been forced on them by any intimidation arising from any proceeding in that House. The gallant Officer had put some questions to him (Mr. C. Wood) yesterday, which, agreeably to the forms of the House, he could not then answer. He need hardly say to an assembly of English gentlemen, like the Members of the House of Commons, how necessary it was, that every officer, whether of the army or navy, or any other service, should conduct himself in a manner becoming the character of an officer and a gentleman. If an officer on full pay subjected himself, or was subjected, to the charge of conducting himself in a manner not becoming an officer and a Gentleman, then that officer was dismissed the service; and, on the same principle, if a similar charge was made against an officer on half pay, who was not amenable to a court martial, then the Admiralty ordered a full inquiry, and if the board was satisfied as to the justice of the charge, on a full inquiry—that the conduct of the individual impugned had not been that which was becoming the character and honour of a gentleman, then they considered it to be their duty to remove him from the list. Would it be contended for a moment, that persons who had been guilty of swindling had any claim to be considered as persons who had pursued a course becoming the character of men of honour and of gentlemen? It must be recollected, that half-pay was not only a reward for past services, but a retaining fee—that the officer entitled to receive it did so subject to a liability, that liability being to be called into active service. Now the effect of the gallant Admiral's proposition would be, as regarded individuals, who, from the peculiar circumstances of their case, would never be called upon to serve, to render them subject to no responsibility whatever. And here was the absurdity of the gallant Officer's proposition in reference to this point. He would retain upon the half-pay list persons who, under no circumstances whatever, could be employed, and who would be subject to no liability. A more monstrous proposition than this it was impossible to conceive. Now with regard to cases, and they were numerous, in which applications were made to the Admiralty by creditors of officers, asking for the interference of the Admiralty for the purpose of obtaining payment of their debts. The advisable course under such circumstances was, to say, that the Admiralty did not interfere in such matters—that they left the parties to their civil remedy and to the civil process. In such cases, he thought, the Admiralty right not to interfere, neither did they interfere. If it so happened, that the officer against whom the claim was made was abroad on leave, the Admiralty forwarded the letter containing the statement to the officer, in order to insure, as far as such means could insure, his being made acquainted with the demand; but if the officer was resident at home, they invariably gave the address which the officer had appended to his name, and which every officer on half-pay was bound to give. If a charge was made by any individual or individuals against an officer for fraudulent conduct, the invariable practice of the Admiralty was to call upon such officer for an explanation, and if it was found there was no ground for the charge, no further notice was taken of the matter, but if substantiated, then the officer so offending was struck off the list. The Admiralty never interfered as between officers of the navy and other individuals with respect to private matters; but if charges were brought forward against officers of having been guilty of conduct unbecoming their characters, as men of honour, and as gentlemen, and if such charges were, on the fullest investigation, proved to the satisfaction of the Admiralty, then, and then only, did the Lords of the Admiralty strike them off the list. They did so on public and not private grounds, and he thought the course pursued by the Admiralty in this respect, was perfectly justifiable.

Captain *Pechell* considered the gallant Admiral entitled to the thanks of the naval profession for having so repeatedly and manfully brought this subject under the notice and consideration of the House; and he must say, that he thought it extremely discourteous on the part of the hon. Secretary for the Admiralty (Mr. C. Wood), to have accused his gallant friend of misrepresentation. He begged to deny that the subject now before the House had any connection whatever with the inquiry now going on before the commission alluded to. Far be it from him to undervalue or depreciate the services of the officers of the army; all he wanted was, in common with the gallant Admiral, that the officers of the navy and army should be placed, in every respect, on the same footing. Such unfortunately was not the case. In the case of a shipwreck or damage to a man-of-war, if an officer's furniture or property were lost or destroyed, he received no compensation; while, if a similar accident occurred to a transport, with troops on board, the officers were indemnified. He would also contend that the principle laid down by his late Majesty had recently been departed from, because William 4th. had been desirous to afford to the officers of the navy their fair share of public appointments. Such, however, was not the case now. Let hon. Gentlemen look to the brevet put forth in consequence of the coronation, and they would find that while there was a column of names of officers in the East-India Company's service, who were nominated to the order of the Bath, there were only the names of six naval officers added to the inferior grade of the order, and only two admirals, gazetted for the riband. He had always stood up in that House, and always would stand up, to defend the interests of that much-abused class of officers—the mates and midshipmen of the navy. He thought their claims ought to have been a subject of inquiry by the commission on the pay and promotion, &c., of the army, the navy and marines; and he should have been glad to see one of the body of mates nominated as a member of that commission—No doubt this might appear an extraordinary proposition, but at least it was not more extraordinary than, that a cornet of dragoons, which was the case at no distant period, should be a Lord of the Admiralty. The House would, perhaps, recollect that a few nights ago he had offered to present a petition from the nearest relative and administratrix of an officer, complaining that 12½ years' half pay, the amount due to her relative, was withheld from her, but which petition he was obliged to withdraw in consequence of an irregularity. The case was this, The officer in question had been confined for 12½ years in a lunatic asylum, and although the Admiralty supported him there for the charge of 1*s.* 6*d.* a-day they charged 3*s.* 6*d.* a-day against his half-pay, as having been the expense incurred for his support and maintenance in the lunatic asylum. The administratrix memorialised the Admiralty, and at length they communicated to her by letter that they had ordered the balance between 3*s.* 6*d.* and 1*s.* 6*d.* to be paid to her; but in eight days the Admiralty relented of what they had done, and cancelled their former order, alleging as the ground for their doing so, that if they acceded to the proposition they would have to pay in the same proportion some 90 other widows whose husbands had been, while living, the inmates of lunatic asylums. All he required was, that equal justice should be done as between the army and navy, and in order to attain that object he gave his cordial support to the motion which the gallant Admiral had submitted to the consideration of the House.

Mr. *Hume* contended that the gallant Admiral had not said that officers ought not to be removed for conduct unbecoming the character of men of honour and of gentlemen; but that they ought to have some security that they would not be removed if their characters were such as not to deserve so severe a punishment. The practice ought to be the same in each branch of the service, and no officer ought to be removed without a full and fair trial. By the returns for which he had moved, it appeared that within a given period no less a number than 1,000 officers of the army had been struck off the list, and a large number, also, of officers of the navy had been removed without any inquiry. How many officers might there not be who had been placed in a similar situation with Mr. Booth, but who, from less fortunate circumstances, had not been able—they being equally innocent—to obtain from their commanding officer that explanation which Lord Exmouth was entitled to give with respect to that case. Let the House also look to the extreme discontent which prevailed in the navy, as had been alleged in consequence of the system of favouritism. Could any man say who had attended to this subject, or any officer of the navy in that House, that promotion was given as the reward of merit? No, merit was not rewarded, while one-half of the commissions that were given away were bestowed upon the aristocracy, or members of aristocratical families, or their connections. A large number of commissions were given to the scions of nobility, in order to afford them additional means for their support. Why did hon. Members doubt the truth of this statement? Had they not seen the names of Elliott, of Troubridge, and of Gardner, in the recent promotions? These individuals, who had done nothing for their country had been promoted within the last three months, while the heroes of 50 battles, and of 30 years' arduous service were allowed to remain at the bottom of the list. [*No, no.*] What right had Lord Minto to promote his son? He would contend that Lord Minto had no right to do so; he was placed at the head of the Admiralty for the purpose among other things, of rewarding merit, and not to practise favouritism. But the army and navy lists both showed that interest and not merit, or length of service, was the surest passport to promotion. What had the son of Admiral Troubridge done to deserve promotion? [Sir *T. Troubridge*—Captain and not Admiral Troubridge.—Several *hon. Members*—the father's services, (alluding we presume to the gallant companion of Nelson, who was lost in the Blenheim, in the Indian ocean, in 1807, father of the present Sir T. Troubridge, and grandfather of the officer to whom the hon. Member for Kilkenny was alluding.] Was he to be blind to these circumstances, and be prevented from speaking the truth. Were they to be told that the naval service was one in which promotion was awarded for merit, when mates and midshipmen of 30 years' standing were passed over and neglected? In the observations he had made he intended no ill will to any one. He had only wished to show in what manner the naval service was conducted as regarded promotions.

Sir *Edward Codrington* begged to state, that if he had really fallen into any misstatements, it was because the information for which he had moved, and which was necessary to a correct view of the whole case, had been withheld from him.

Captain *Pechell*, alluding to what had fallen from the hon. Member for Kilkenny, with respect to the recent promotion of the son of the gallant Officer below him, begged to state, that that promotion was most gratifying to the whole of the navy, to whom the name of Troubridge was endeared by a thousand recollections. He was satisfied, that the oldest officer who had been passed over would look with pride rather than with envy upon the promotion of the young officer to whom the hon. Member for Kilkenny had so inopportunely alluded.

Sir *James Graham* had not intended to have taken any part in the present discussion, and, certainly, should not have done so but for the unjust and ill-timed remark of the hon. Member for Kilkenny. It was well known, that he differed widely in politics from the gallant officer (Sir T. Troubridge) who sat opposite, yet, he must say, that, he could hardly suppress his feelings when he heard the promotion of that gallant Officer's son impugned. He dissented from the doctrine, that the service of the father was not to operate favourably in the consideration of the son. He thought, that the sons of all meritorious officers ought to be favourably regarded. But, in the present instance, the officer promoted was the son of an admiral who had served with great distinction, and the grandson of an admiral who, in the naval annals of the country, had gained immortal fame. Was it too much that some testimony should be borne to the gallant and honoured name of Troubridge by the promotion of a young officer who stood as high as any in his profession, and who deserved well of his country if it were only from the recollection of the actions of his forefathers? He declared, that he should have thought Lord Minto guilty of a gross dereliction of duty if, because the father (Sir E. T. Troubridge) sat at the same board with himself, he had shrunk from the duty of promoting the son. He would even go further, and say, that in every instance the Lords of the Admiralty having sons of their own reared up in the profession, and thoroughly conversant with its duties, would be fully justified in giving to those sons all the benefit of their high station. One other remark had been made by the hon. Member for Kilkenny to which he also wished to refer. The hon. Member stated, upon what authority he did not know, that if five line-of-battle ships were to be required for active service to-morrow, the whole of the Navy List would not furnish a sufficient number of officers competent to command them. It would seem hardly necessary to give a formal contradiction to such an assertion. It would be enough for him to remark, that if not five but fifty sail of the line were required to-morrow, the Board of Admiralty would have no difficulty in finding officers enough, and competent enough, to command them. As to the general question of the promotions which had taken place in the navy, he would only remark, that he did not approve of the House of Commons being made a court of appeal in such matters. He should, therefore, oppose the motion of the gallant Admiral.

Mr. *Warburton* entirely dissented from the doctrine laid down by the right hon. Baronet (Sir J. Graham) that those who filled high places should be ever forward, nay, that they should consider it their duty, to heap promotion and honour upon their relatives.

Sir *E. T. Troubridge* had intended to have replied to the statement made by the gallant Officer who brought forward the present motion; but the manner in which the hon. Member for Kilkenny had alluded to the promotion of his son totally unfitted him for the task. It was painful, very painful, for him to be placed in the situation in which he then stood; but he had the satisfaction of feeling, from what had already occurred, that the House, and he hoped the country also, would agree in the sentiments so kindly expressed by the right hon. Baronet (Sir James Graham) opposite. He believed also (and this was a great additional consolation to him) that the sentiments so handsomely expressed were shared by a large portion of his fellow-officers. He had had the satisfaction of hearing from many even of those who had been so disappointed in their own promotion, that they had not a word to say against the advancement of the grandson of two Admirals. More than this he could not say. He had come down to the House prepared to speak upon many points involved in the gallant Admiral's motion; but the remark of the hon. Member for Kilkenny took him by surprise, and he confessed he had never felt more overcome in his life.

Captain *Gordon* did not intend to detain the House by entering into any discussion of the general question; but he felt it necessary, in consequence of the unfortunate remark of the hon. Member for Kilkenny, to bear his testimony also to the regard in which the name of Troubridge was held in the navy. There was not an officer in the service who would not feel great gratification in hearing of the promotion of any one of the Members of that gallant family.

Sir *E. Codrington* inquired why, if sons were to benefit from the merits of the father, the son of Commodore Bathurst, who was killed at Navarino, had been overlooked?

Admiral *Adam* thought, that if any fault had been committed by the Board of Admiralty of late years, it was in the promotion of too many old officers, instead of young ones. It was absolutely necessary for the benefit and well-being of the service, that a certain portion of young blood should be constantly infused into the list of officers. This was necessary to maintain the efficiency of the service; and it was a necessity that must be observed even though many good and gallant officers should be passed over. With respect to the distribution of the order of the Bath, of which the hon. and gallant Member for Brighton complained as being much too restricted, he (Admiral Adam) could only state, that the Admiralty had sedulously adhered to the number fixed not long since in a message from the Crown.

Sir *Henry Hardinge* had always objected to the House of Commons being made a court of appeal either by the army or navy. If the officers in either service had a grievance to complain of, it was to the Sovereign that they ought to look for redress. It was true, that there might be exceptions; there might be particular cases sufficiently strong to induce the House to take them into consideration; but he confessed he had heard nothing in the debate of that evening which would induce him to depart from the general rule upon which he had always acted since he had been a Member of that House, namely, to object to any motion the effect of which would be to make the House of Commons a court of appeal from the army or navy. Therefore, if the present question should go to a division, he should certainly divide against the gallant Admiral. As far as the gallant Admiral's motion related to the promotion of naval officers, he certainly did not see that there would be any difficulty in bringing that matter under the consideration of the commission appointed at the commencement of the Session, and to which allusion had been made in the course of the discussion of that evening.

Lord *Ingestrie* fully subscribed to the doctrine, that it was fit and proper that the son of a deserving officer should derive some benefit in consideration of the services of his father. Entertaining that feeling, he could not abstain from expressing his regret, that the son of Commodore Bathurst, who fell at Navarino, had not yet been promoted. He mentioned the subject thus publicly on the present occasion in the hope that it would attract the attention of the Lords of the Admiralty, and induce them not longer to overlook the claims of an officer whose father deserved so well of his country.

House adjourned.

HOUSE OF LORDS,

Thursday, July 26, 1838.

Minutes.] Bills. Read a second time:—Affirmations.—Read a third time:—Revenue Departments; Securities; Turpentine Penalties.

Petitions presented. By the Duke of Hamilton, from Limerick, in favour of the principle, but objecting to some of the Clauses of the Prisons (Scotland) Bill.—By Lord Hatherton, from Staffordshire, and by Lord Barham, from Rutlandshire, against Idolatry in India.—By the Earl of Kinnoul, from Perth, against certain parts of the Prisons (Scotland) Bill.—By Lord Wharncliffe, from a place in Yorkshire, for the Amendment of the New Poor-law.—By the Earl of Haddington, from Leith, against the Parliamentary Burghs (Scotland) Bill.

[The Commons' Amendments to the Amendments of the Lords to the Poor Relief (Ireland) Bill were taken into consideration, and severally agreed to with the exception of an Amendment in the Schedule, from which the Lords disagreed, and a Committee was appointed to draw up reasons for the disagreement, and a Conference with the Commons was ordered.]

Church Discipline.] The Lord Chancellor moved the Order of the Day for the third reading of the Church Discipline Bill.

The Bishop of *Exeter* rose to put a stop, if possible, to the further progress of a bill which, in his conscience, he firmly believed to be the greatest blow that ever was struck against the Church of England, as a church. The bill professed to effect that which, he contended, it was beyond the competency or the power of any Christian Legislature to effect. The bill, in fact, went to put an end to the existence of any ecclesiastical court having the power to decide causes involving the correction of clerks, except the Court of Arches; it went to deprive the bishops of a power which they had long exercised in their respective dioceses. Now, he must be permitted to say, that their Lordships and the other House of Parliament, and her Majesty, all joining in this legislative act, could not effect that which this bill presumed to effect, because there was a jurisdiction given to a Christian bishop which no human laws could interfere with. He would ask, if there were any amongst his right rev. Brethren near him who supported this measure, how they could reconcile to themselves the main provisions of the bill, when they considered those texts of Scripture from which he had been in the habit hitherto of deducing, and from which the most learned theologian had always deduced, the divine origin of episcopacy, and the power with which it was clothed? Those texts, upon which every theologian relied, gave a great power and jurisdiction to the bishop, even to the extent, where it was necessary, of pronouncing excommunication. That power it was now sought to take from the episcopal body by the provisions of this bill, and he should resist to the utmost any such attempt. In arguing this question, he was forced to refer to sacred authority. He was unwilling to quote Scripture in that House; but on this solemn occasion he was compelled to do so. In the 1st Epistle to Timothy, the special order of St. Paul was, "Against an elder receive not an accusation but before two or three witnesses." And in the Epistle of St. Paul to Titus, bishop of Crete, it was set forth, "A man that is an heretic, after the first and second admonition, reject," or excommunicate. These texts, and others of a similar nature, which might be quoted, proved the divine origin of episcopacy, and of the power which was attached to it. Now, he would ask such of his right rev. Brethren as might support this bill, how they would dispose of this important question, how they would reconcile their abandonment of the authority thus conferred on them with the rule laid down in Scripture? Not only was it the direction of St. Paul that they should exercise this power, but it was clearly recognized in the office for the consecration of bishops. When the bishop was consecrated, a question was asked by the officiating archbishop or bishop, and was answered by the applicant for ordination, which question and answer he should read. The question was, " Will you maintain and set forward as much as shall lie in you, quietness, love, and peace, among all men; and such as be unquiet, disobedient, and criminous within your diocese, correct and punish according to such authority as you have by God's word, and as to you shall be committed by the ordinance of this realm?" Here an independent authority, the authority of " God's word," was clearly recognised. There was, it was true, a further power committed to the bishop " by the ordinance of this realm"—a power to enforce the authority derived from a divine source. The law of the land only gave additional strength and force to the power which the bishop originally possessed " by the word of God." What, then, was the nature of those bishops' courts that were now sought to be done away with? They were intended to enforce the spiritual power of the bishop, and were as old as Christianity itself. They were courts which, formed for such a purpose, and based on such authority, whatever their human laws might affect to do, could not be extinguished. When the applicant for consecration was solemnly asked the question which he had read to their Lordships, he answered—" I will so do, by the help of God;" and, having thus answered, he could not be released by any law that man could make from the sacred obligation which he had thereby incurred. Human law might deprive a bishop of his see. In that case he, of course, had no place in which to exercise his jurisdiction. But he maintained, that, without depriving him of his see, no human law could prevent him from the full exercise of his episcopal jurisdiction. He spoke advisedly; but he spoke not in a spirit of defiance, when he said, that should this bill become law, he should not feel himself at liberty to obey its main instructions or directions. To other laws he would cheerfully conform; but this would be a law, if the bill were passed, that would strike at the very root of the essential discipline of our Christian Church; and he felt, that he should be a traitor to that Church if he supported it. He plainly and openly, then, declared, should this bill pass into a law, that if a clergyman in his diocese conducted himself criminally, he would call on that clergyman to answer to him for his actions, on his oath of canonical obedience. Over the clergyman's civil state he had no power; but he had power over him in a spiritual point of view, " and," (said the right rev. Prelate) " before his master and my master, I will remind this erring clergyman of his folly or his vice, I will reprimand him for it; and if he will not obey the remonstrance, I shall proceed to that sentence, which this bill tells me I shall not pass—I shall proceed to excommunicate him. Then, if this be done, your Lordships in Parliament may pass a bill of pains and penalties against me, you may deprive me of the seat which I now hold (but of which I shall never make myself unworthy); you may rob me of my see, you may take from me my robe, but my integrity to Heaven I shall maintain inviolate." The bill, if it passed, would work a monstrous injustice. It would transfer all that power which properly belonged to the bishops of this Church to one court, the Court of Arches. Now, he had written to the chancellor of his own diocese as to what was the uniform practice in that diocese with respect to cases brought before the bishops' court, and that gentleman stated that the uniform practice, so far as he knew—was a practice followed by the best and ablest men. The chancellor of the diocese stated—" Within my experience, and I believe always, the bishop has himself presided at the hearing and the giving of sentence. After the pleas have been completed, and the evidence taken, according to the ordinary forms of the court, the whole is submitted, with the observations of the proctors on both sides, to the bishop; or if there has been a hearing by counsel, the bishop has always himself been present, and the bishop has always himself given the sentence as judge." Now, the bill, if it were passed into a law, prevented the bishop from thus proceeding. The third clause of the bill set forth, " that all suits now pending in any ecclesiastical court (other than the Court of Arches) shall be and the same are hereby removed and transferred before the Court of Arches; and the same suits, and all suits for the correction of clerks now pending in the Court of Arches, shall there be proceeded in, either according to the law and forms and in the manner heretofore in force and use in the said court, or in the manner directed by this act with respect to suits hereafter to be instituted, according to the discretion of the judge of the said court; and the decisions of the court of Arches in such suits may be appealed from, and such suits proceeded with before the judicial committee of her Majesty's most hon. Privy Council, as if this act had not passed. Now, he would ask of the most rev. Prelate, was it ever known in the history of the Church, that the court of the metropolitan should have jurisdiction in provincial cases, except where the bishop himself was the party accused, in cases of *laches* or dereliction of duty. He spoke most confidently when he said, that no such practice ever prevailed; and he asked his right rev. Brethren, if any of them disputed the doctrine, to state the grounds upon which they founded their opinion; and, if they did not dispute it, he called on them to say how they could agree to a bill which introduced an entirely new and hitherto unknown practice. He knew, that the Archbishop in one point differed, with respect to his authority, from the provincial, until this country threw off its connexion with the Church of Rome, and exercised an original jurisdiction. But this was not the case since the Reformation. And on what was that original jurisdiction founded? It was founded on the fact, that the Archbishop was the representative of the Pope, as the head of the Church. It so happened, that some centuries ago the Archbishop of Canterbury claimed jurisdiction in the see of Hereford; but that claim rested simply and solely on the fact, that he was the legate of the Pope. And he must argue, that the supremacy of the Pope having long since been put an end to, the Archbishop of Canterbury could not lawfully, according to the essential discipline of the Church, exercise an original jurisdiction in any diocese whereby he interfered with the power of the bishop. But this bill went further. It attempted to do that which he never supposed, that the most presumptuous Legislature would have insisted on. He considered the Archbishopric of York to be as independent of Canterbury as Canterbury was of York, and yet by this measure suits instituted in the archdiocese of York were to be submitted to the Court of Canterbury. He should be glad to know, had the bishops of the archdiocese of York given their assent to this bill? He knew not. But he thought, that if such assent had not been given, it was most improper to have introduced this measure. But he might be told, that at some private meeting of bishops a majority had assented, not to this bill, but to some measure of a similar nature. But he must say, that that House, in dealing with such sacred rights as this bill affected, ought not to be worked upon by any such proceeding, however worthy the individuals who were parties to it might be. It ought to be clearly proved to their Lordships, that the assent and consent of the parties who would be affected by this bill had been unequivocally given before they agreed to it. No such proof had been afforded; and if any right rev. Prelate stood up and stated, that an assent was given at some particular meeting, he must declare, that in his opinion such was not the way in which assent should be given on so important an occasion. He must further say, that an assent given in such a manner was by no means sufficient. He would ask was there one bishop of the archdiocese of York, who heard the observations he had made, who would make an answer, when he asked of him on what principle known to the Church of Christ had he given his consent, if such consent had been given, to a bill that took from the bishops that power which they possessed by divine authority? It was the object of the ancient temporal law of this land to endeavour to prevent the free subjects of this nation from being harassed by ecclesiastical suits instituted far from the diocese in which they resided. With that view, the 23d of Henry 8th, c. 9, was passed. That statute was introduced just before the Reformation, when men's minds were most alive not only to the corruptions, but to the usurpations, of the Church of Rome. At that time, and before Henry had separated from the Church of Rome, a bill was brought in and passed, which prohibited process from being sued out in the Archbishop's Court, with reference to cases originating out of his jurisdiction. The Archbishop was restrained from calling persons before him in cases occurring in different dioceses, unless where the bishop was afraid of proceeding against the accused party in his diocese, was guilty of any important omission, or had neglected his duty. With these exceptions, the statute of Henry 8th forbade, that to be done which the noble and learned Lord on the Woolsack now called on their Lordships to do. It would not, he presumed, be considered any disparagement to the noble and learned Lord who now presided in the Court of Chancery, and who was Speaker of that House, to observe that the bill to which he had referred was passed when Sir T. More was Lord Chancellor. It was passed under the sanction and authority of that most virtuous man, who, though he yielded up his life rather than recede from his conscientious belief in the supremacy of the Pope, yet, on behalf of the King's subjects, opposed the idea that individuals whose cases might be investigated in the provinces, should be called on to answer in the court of the Archbishop of Canterbury. To the 10th and 11th clauses of the present bill, he felt the strongest objections. The 10th clause enacted, "that when all the several pleas in any such suit shall have been made up, and before any witnesses shall have been examined, but not afterwards, it shall be lawful for the bishop of the diocese to whose authority the defendant may be subject, or if he is subject to the authority of more than one bishop, for the archbishop of the province to enter a *noli prosequi* in such suit, provided the judge of the said court shall have made such bishop or archbishop a special report, that in his judgment the suit is frivolous or vexatious, or otherwise improper to be proceeded with." Now, the prosecutor might be Heaven knew whom; but the bishop, not being the prosecutor, having nothing to do with the matter as prosecutor, was called on by this clause, at the suggestion of a third party, to enter a *noli prosequi*. Now he would ask the noble and learned Lord on the woolsack, whether it was ever known that a *noli prosequi* was entered at the instance of a party having nothing to do with the suit? The 11th clause enacted, "That when all the several pleas in any such suit shall have been made up, and before witnesses shall have been examined, or afterwards, it shall be lawful for the judge, on motion in open court, on behalf either of the promoter of the suit or of the bishop of the diocese, to whose authority the defendant may be subject, or, if he is subject to more than one bishop, on behalf of the archbishop of the province, to suspend the defendant from performing any spiritual offices during the pendency of such proceedings; and thereupon it shall be lawful for the bishop of the diocese within which such defendant may be beneficed, licensed, or serving, to provide in the mean time for the performing the duties of the cure, by sequestration or otherwise, as in the case of non-residence." This, he contended, was contrary to a principle of the canon law, both ancient and modern, which provided that the bishop himself should pronounce sentence in case of suspension or other penal visitation. He should unhesitatingly say, that in point of public policy a more unjust and inexpedient measure never had been presented to either House of Parliament. There was nothing that could more tend to dissolve the connexion between the bishop and his clergy, than to take out of the hands of the bishop jurisdiction over the conduct of the clergy of his own diocese. If the bill passed into a law, he should be obliged to send them to the metropolis for every offence of which they might stand accused. But, apart from considerations of this nature, the importance of which could hardly be overrated, he must call their attention to the fact, that the bill involved most important private interests, and involved them in a manner that gave impunity to guilt, and robbed innocence of its best protection. Could anything be so calculated to work injustice, as that an act of the Legislature should declare, that a man was not to be called to account for real or alleged misconduct in the country where he was best known. The man might live, or the offence might be committed in Durham or in Cork, but the legal proceedings must take place in London. In accusations against the clergy, as against other individuals, but especially in cases affecting the clergy, it was of the utmost moment to know what sort of reputation the accused bore in his own immediate neighbourhood. Surely, it was there, that men could best judge of the probability of charges. If the clergy were deprived of the advantages which a local trial gave them, could anything be easier than for any malicious man, having a long purse, to terrify into submission any neighbouring curate, against whom he might think proper to prefer an accusation, for what country curate would attempt a defence in Doctors' Commons? Having said so much on the merits of the bill itself, he should trouble the House with a remark or two on the subject of authority. The noble Duke opposite, one of the greatest and best of reformers, when he was at the head of the Government in the reign of George 4th, had his attention directed to a case long pending in the ecclesiastical courts, and which by the conduct of one of the parties had been transferred from one court to another, until such a delay had taken place, and until such costs were incurred, that hardly any adjudication could lead to a just result. Thereupon the noble Duke issued a commission to inquire into the state of the law, and to report to the Sovereign thereon, suggesting such remedies as to the commissioners might seem most expedient and best calculated to remedy the evils to which he had directed their attention. That commission included the most reverend prelate then in the House, it included several of his right rev. Friends; amongst the commissioners was the noble and learned Lord opposite, and several of the most eminent judges of the land. They proceeded to the task which the noble Duke had assigned them with the greatest zeal and industry, and made such a report as was not often made. Those commissioners gave their opinion decidedly in favour of preserving to the bishop his ancient jurisdiction over the clergy of his diocese, although they thought he might delegate to his chancellor jurisdiction respecting disputed wills and other questions of that nature; the report distinctly stated the doctrine relative to the canon law in this particular, and this he found to be in exact accordance with the opinions which he had taken the liberty of stating to their Lordships on the subject of the present bill. The language which the commissioners used in their report was this:—"With respect to the tribunal which we recommend, we remark that it will restore to the bishops that personal jurisdiction which they originally exercised, and which was afterwards delegated by them to their chancellors and officials. The doctrine of the canon law is, that although the trial of causes of certain descriptions may be properly intrusted to a lay judge, to the bishop himself belongs *inquisitio correctio punitio excessuum seu amotio a beneficio.*" Agreeably to this principle, the power of deprivation is reserved to the bishops in person, and the same principle seems to apply to the case of suspension, and to the infliction of any other censure which may affect a clergyman's spiritual functions. Their Lordships, of course, would not overlook the fact, that the name of the framer of the present measure was included in the commission. The noble and learned Lord who brought it in, might have acted as midwife; but the parent of the bill was one of the commissioners. He begged the House to contrast the declarations of the report with the measure then on their table, which violated every recommendation of the commissioners. For example, the commissioners said, the bishop ought with the aid of an assessor, to hear and determine all matters relating to the conduct of the clergy. His right rev. Friend near him had said, that great advantages would accrue if the whole of the recommendations of the commissioners were attended to; surely, then, that right rev. Prelate must now vote against the bill. It was expected, that the report made at the instance of the noble Duke would, in 1834, have led to some measure; but, as their Lordships were aware, no such result ensued. The Session of 1834, was called "the do-little Session;" and certainly nothing in that year was done with reference to the measure in question. It was stated, however, by Sir John Campbell, in 1835, he not being then Attorney-general, that when he had filled that office, a bill in accordance with the recommendations of the commissioners had been prepared; but he and his Friends thought, that if brought in, there would, at that time, be no chance of its being carried. This led to the year 1835; and thus was he enabled to say, that his late Majesty's Ministers had expressed sentiments diametrically opposed to the present bill. In 1834, 1835, and 1836, successive Ministries declared in favour of adopting the recommendations of the commissioners. The most rev. Prelate near him, said, in reference to the measure introduced by the noble and learned Lord opposite, that the subject was one of extreme difficulty and importance. The most rev. Prelate called upon every Member of that House, lay and spiritual, to use their best endeavours for the purpose of making the bill as perfect as possible. There was not a whisper against the principle of the measure; it underwent some slight alterations in Committee, but the bill passed their Lordships' House unanimously. It was, however, not passed by them till the 2d of August, when there was no hope of its passing the Commons. In that hon. House, it was not even read a first time; and they did wisely and well on so short a notice not to take the bill into their consideration. The year 1837 was allowed to pass without any renewal of the bill, and now, at this late period of 1838, a totally different measure was laid on their table. A very learned personage, who had been a member of the commission, had told them in terms, that he thought the scheme agreed to in 1832, to be wholly impracticable. Now, this same learned personage had agreed to the report of the Committee in 1832, calling upon Parliament to agree to that very project which, in 1838, he declared that he had always thought calculated to increase the existing evil, and, in short, impracticable. That learned personage was now in the decline of life, and his opinion, which might have possessed much weight when he was six years younger, was, at present, of considerable less value in his (the Bishop of Exeter's) estimation. He could answer for it, that the report which was thus pronounced to be impracticable, had been carried into effect in his (the Bishop of Exeter's) diocese and elsewhere. It was true, that the bishops had been asked, whether this scheme was agreeable to them; but at the first meeting which had been held upon the subject he (the Bishop of Exeter) had arrived rather late, and he had been obliged to tell the meeting that, upon a matter of such grave importance, he could not make up his mind at once; but at the same time he did not shrink from fairly stating his belief that the measure would involve an extinction of the practical functions and authority of the bishops. He was unable to attend the next meeting; but he had been favoured with a copy of what he understood to have received the sanction of a majority of the bishops. No bill was, however, at that period submitted; and he had gone down to the country, not knowing that his brethren had assented to any measure of this description. Upon his arrival at the place of his destination in the country, he found, among his Parliamentary papers, one which struck him with very considerable surprise—namely, the bill which was now upon their Lordships' table; a measure, which, so far from having, like other bills, been elaborated with any ordinary degree of care, had sprung forth a perfect Minerva from the head of the noble Lord, complete at its birth. Almost immediately afterwards, the committee upon the bill was, he found to his infinite astonishment, appointed. Upon his ascertaining this, he started forthwith to town directly after dinner, to oppose its further progress. It was a measure affecting the most important interests and essential functions of the clergy, on behalf of whom he earnestly appealed to their Lordships. The clergy of this country had not yet had an opportunity of knowing one fraction of the provisions of the bill. If it was a bill for the regulation of master chimney-sweepers, it would have been proceeded with in a more careful and patient spirit. Surely, it was not to be endured that such a bill should pass from their Lordships to the other House of Parliament, in the absence of many of those who would be the most likely to give it a careful consideration, to be dealt with by a summary process, and hurried indecently through the House. He, therefore, did not believe that their Lordships would grant a third reading to the bill, but that they would rather agree with him when he proposed, that it should be read a third time that day six months.

The Archbishop of *Canterbury* observed, that if hard words and insinuations could secure the fate of this bill, its doom might be considered as sealed. If, according to the right rev. Prelate's statement they had been influenced by a desire to devise a measure which would become destructive to the legitimate influence of the bishops as well as to Church discipline generally, they would have just fixed upon the present bill; and yet, according to the right rev. Prelate, the measure had emanated from individuals who were entitled to the highest respect. The right rev. Prelate had paid some compliments to him which he was aware, that he did not deserve. He had also alluded to the very eminent judge who presided over the court of Admiralty, and he had indulged in insinuations, which he had heard with the utmost concern, with respect to that revered judge's faculties being impaired. Now, he could say from personal knowledge, that those insinuations were unfounded. But the attacks of the right rev. Prelate were not confined to that revered judge; but he had chosen to impute to the Lord Chancellor, that he did not act in this matter upon his own motion, but was prevailed upon by the representations of others to take charge of the bill. Now he would scorn to shelter himself under the wing of others, or to decline to take to himself his full share of responsibility in this matter. The bill, however, which had not been framed without consulting the entire bench of bishops, for no fewer than two preliminary meetings had taken place, which were numerously attended. Upon one of those occasions the right rev. Prelate had attended, and objected to the bill, but certainly not in the terms of reprobation which he had chosen that night to employ, nor anything like those terms. There was, he believed, only one other Prelate who objected to the bill upon that occasion, and who did so simply on the ground, that he was satisfied with the working of his own court. He was requested by that body of bishops to carry the heads of the bill to the Lord Chancellor, as having received their approbation, and they being desirous, that it should be carried into effect. He did not imagine that their Lordships would be much influenced by the assertion of the right rev. Prelate as to the interference of this bill with the inherent rights of the Church. Most of the right rev. Prelate's observations upon this subject applied to a perfectly different state of things from the present, when the Church was an independent society, not at all connected with the State, and its affairs were managed by its own officers. Referring to the Reformation, and especially to the Revolution a great deal of business was committed to them which did not properly belong to them, and yet was judicially disposed of by the chancellors nominated by them. The case which had been referred to by the right rev. Prelate afforded a very sufficient illustration of the evils attending upon the old mode of proceeding in the ecclesiastical courts. At present either party might appeal, from the courts of inferior jurisdiction, or from the diocesan courts to the Court of Arches. Now, this was the state of things from which the bishops who had acted with him were desirous of relieving the Church. According to the plan now proposed, there would be only one appeal to one of the courts from a final sentence or from a decree having the effect of a final sentence. But it was said, this was taking away the jurisdiction of the bishop and transferring it to another court. But a cause might at present be removed at any time to the Court of Arches; at least, this was the case both with the inferior courts and the greater part of the diocesan courts. It was extremely desirable that cases of this kind should be heard before a sufficient court, one competent to decide the questions which came before it, and to carry its decrees into execution, with a bench of advocates who were able to do justice to both parties. Would the right rev. Prelate say, that the courts at present in existence furnished any such means? The consequence of the continuance of the present mode of procedure would be to continue the inefficiency of the present state of things. When the right rev. Prelate spoke of innocent persons being dragged up to London, it was no more than they were exposed to at present, and he considered that it would be much better for them to have their cause heard before one competent court than to be subjected to an inquiry before a court of inferior jurisdiction, and then to have the cause removed to the Court of Arches. With respect to the feelings of the clergy on this subject, what other feelings could they have but a desire that justice should be done on those who were a disgrace to the clergy? He was sure that there was not a respectable clergyman in England who contemplated being dragged before this tribunal, He would, however, tell their Lordships what the clergy did object to in the bill of 1836, the history of which had been given at so much length, and that was, a provision that the clergy should serve on juries, to judge their brother clergymen. To return to the present bill, their Lordships would recollect that the present courts must be presided over by bishops who could not retire, like the judges, when they were superannuated or infirm. But the court proposed would always be competent, and as its jurisdiction would be extended over England and Wales, there would be no questions about local jurisdiction. He hoped he had shown, that there was nothing new in the Court of Arches taking original cognizance of these cases. The alteration suggested would also much diminish the expense of the present process. He repeated, that he made himself responsible, not for the details of the bill on anything he did not understand, but for the principle on which this bill was framed. If he was wrong, as very likely he might be, and he was shown that he was wrong, he was very ready to give it up. He had been actuated by no other motive than a desire to make the discipline of the Church as effective as possible, and of removing a blot which had long shamed the Church—namely, that offences had been committed with impunity by clergymen, while any attempt to punish them by prosecution bore more severely on the prosecutor than the prosecuted. He should not shrink from the odium of unpopularity which such unfair observations as he had heard that night might tend to create against himself and the other authors of this bill. He was not disposed to weaken episcopal authority, nor to invade the privileges of the *forum domesticum*. The right rev Prelate said, that supposing a measure of this kind to pass, he would avail himself of the spiritual powers given him by the supreme head of the Church, and that he would call on the offending clergyman, by his oath of canonical obedience, to repent of his errors, and to amend his life. But did this bill interfere with the *forum domesticum?* Did it not leave the full exercise of those powers to every Bishop on the bench? Of those powers the Bishops could not divest themselves, but so far from being weakened by the bill, they would be strengthened when it came into operation. It was impossible to suppose, that any Bishop would carry on a prosecution against a clergyman when he might carry his object into effect by the milder methods of persuasion and reproof. A prosecution was only resorted to when the reformation of a criminal was hopeless, and he had no other course to pursue. Some invidious attacks had been made upon the 10th and 11th clauses of the bill, which gave the Bishop power to suspend clergymen pending prosecutions against them: but after the bill had been read a third time he would propose a clause which would, perhaps, meet the views of the right rev. Prelate. He would not now go further than to say, that ecclesiastical courts had been before their Lordships for many years, and had been the subject of frequent discussions, and that it was now time to put an end to it, in order, that the enemies and friends of the Church might not have it in their power to say, that crimes could be committed by clergymen with impunity. No remedy could be proposed for the existing evils which were admitted, that would not be met by objections from some parties; but still he held the principles on which the bill was now opposed by the right rev. Prelate were erroneously founded, and that, as no mode of amendment could be expected to give universal satisfaction, he trusted their Lordships would now allow the bill to be read a third time.

The Bishop of *Exeter* rose to answer two questions put to him by the most rev. Prelate. The most rev. Prelate had asked if he could prevent a cause being now brought originally from the provincial or diocesan court into the Court of Arches in London. He begged most distinctly to say, that he could. The most rev. Prelate said, that the report contained directly the contrary; he would put the report into the hands of the most rev. Prelate, and entreat him to point out the passage. He had, as was his duty, made it his business to ascertain what was now the practice, and he had asked his own chancellor whether he granted letters of request *ex debito justitiæ* or *ex gratiâ*, and he had been informed, that so far from being a matter of course, he (the chancellor) always deliberated whether or not he should grant them, and had added, that there was then a case in his court in which he had refused them. He had learned also, that it was impossible in all the cases of the correction of clerks to find a single instance in which by letters of request the causes had originated in the Court of Arches. The next question put to him was, as to the party who pronounced now the sentence of deprivation. As the law now existed, the sentence was pronounced by the bishop, not coming up to the Court of Arches, but in his own diocesan court. If the sentence was appealed against, it came to the Court of Arches, and then went back to the diocesan court, where the Bishop pronounced sentence. He protested, that such was, he firmly believed, the state of the law at present.

Lord *Brougham* said, that he was anxious that some of the right rev. bench who had served on the commission should have an opportunity of addressing the House on this subject; but as none of them rose he was desirous, mixed up as he had been with this question, of offering a few observations to their Lordships. He entirely agreed in what had fallen from the most rev. Prelate in the very candid and temperate statement which he had made with respect to the object he had in view; he was sure that no man who knew the most rev. Prelate as he (Lord Brougham) had long had the happiness to do, or any one who by reputation knew the most rev. Prelate could have the slightest doubt of the entire and absolute purity of his intentions—of that purity which had influenced the whole of the most rev. Prelate's career. The most rev. Prelate might now differ in opinion from those with whom he had before agreed—he might now have a new view of the subject from that which he entertained when on the commission, and this was an additional ground for confidence in the candour of the most rev. Prelate. But it was one thing to give the most rev. Prelate credit for candour, and it was another thing to consider he had been wrong in his views in 1830—again in 1832, and again in 1835, when a bill on this subject had been most fully discussed in Committee, and without opposition. He (Lord Brougham) had listened with the utmost attention, as he always did, to every thing that fell from the most rev. Prelate, especially upon ecclesiastical matters, and with an extreme desire to learn what had produced so great a revulsion and change of sentiment in one who had agreed with him (Lord Brougham) on a former occasion. He had listened with profound respect to the most rev. Prelate, but from the beginning to the end of his speech he had been unable to discover any single shadow of argument against the report of the commissioners, or against the bills founded upon it three or four different times by the Government of the noble Duke opposite (the Duke of Wellington), by the Government of the noble Viscount near him (Viscount Melbourne), and by the Government of Earl Grey—bills all intended to give that report full and immediate effect. The arguments of the most rev. Prelate had been confined, not to a comparison between this and former remedies, but between this bill and no remedy at all for the present defective state of the ecclesiastical jurisdiction. He had no wish to interfere between the two right rev. Prelates, both of whom were eminent ornaments of the Church, but he could not help feeling but that the right rev. Prelate was justified in complaining that the recommendations of the commissioners had been so completely departed from in the present bill. The most rev. prelate appeared to be surprised at the strictures passed on this measure by the right reverend relate. He (Lord Brougham) would only say on this point—

> "Tantæne animis cœlestibus iræ"

But he thought that the most rev. Prelate did not state the facts of the case quite fairly when he referred to the extreme case of Mr. Free, and asked whether for such a case of delinquency there should not be provided a remedy. The right rev. Prelate, however, did not say that such a state of things should be allowed to continue, for he distinctly stated it was a very bad state of things, and that a remedy should be provided, but that the present measure would not be an efficient remedy. He (Lord Brougham) agreed with the right rev. Prelate that there should be a remedy, but that the former one that was proposed was infinitely better than that proposed in this bill. The most rev. Prelate said, that the court recommended in the report of the commissioners, and proposed in the former bill, was not so perfect a court, as there was not so much legal knowledge in it as there was in the court of Arches. The report did not propose, as had been supposed, that the Bishop should preside in this court; but it recommended that he should have an assessor. It did not propose, that the Bishop should be personally sitting *in foro domestico*, but that he should be there by deputy. The present bill, if passed, would take the immediate jurisdiction from each Bishop, and would provide that all cases should come up to Doctors' Commons from all parts of the country, even the most remote. Therefore, if the conduct of a curate residing in Wales was called in question the case must be brought up to London; and the same with a poor parson in Cumberland, in Berwick-on-Tweed, or at the Land's-end. According to this bill every case must originate in Doctors' Commons, although the commissions had unanimously recommended that the case should in the first place be heard before the Bishop or his assessor. He was satisfied that it was better that the matter should commence in this way, as was proposed in the other bill, than that every matter of this kind should be dragged up to London. Now, this bill would really disable a Bishop from proceeding in case of delinquency if he was at all anxious as to the amount of the expenses he was likely to incur. The Bishop of the diocese, be it recollected, was liable to all the expenses of this proceeding, for he must defray the charge of bringing the witnesses up to the Arches Court, and their maintenance here, and the employment of counsel, and all the other heavy expense of proceeding in this dilatory court. He entertained great respect for Sir John Nicholl and his nephew, Sir Herbert Jenner; but, notwithstanding all his respect for these learned judges, he must most strongly object to the mode in which the business was conducted in their court. In their court the judge never saw the face of a witness, but the evidence was taken by depositions, and the form in which it was taken was as objectionable as the system which existed in the old court of session in Scotland before it was reformed; and the form of the pleadings in this court was in conformity with the inconvenient, verbose, and antiquated mode provided by the civil law. Instead, therefore, of examining the witnesses *vivâ voce* on the spot where the character of the poor clerk might be known, the whole of the parties were to be dragged up from the most distant parts of the country to Doctors' Commons, where the witnesses would not be questioned in open court, but where they would have to make depositions which would have to be written out, then printed, and, after the lengthened proceedings on one side and the other, judgment might be given; then the case might be carried to a Court of Appeal, and the whole proceedings would have to be gone over again. This bill, therefore, had first the bad quality of preventing a Bishop doing his duty, unless he were willing to incur the responsibility for the heavy expense that necessarily would be entailed by such proceedings as were directed in this bill, in this most expensive court; and, secondly, it enabled a malicious person—if there could be such a being on the bench of Bishops—to subject the clergy of a diocese to ruinous expense, by adopting proceedings against them in this court. If they went on legislating in this way, by passing a bill unanimously, for two consecutive years, and then in the following year passing a measure every enactment of of which was contrary to those in the previous bill, he did not see how they could obtain any respect for the proceedings of that House. He did not see how they could ever hereafter get men of great learning and acquirements to act as commissioners if their labours were to be treated with the contempt which they had been, by adopting in this bill, principles directly at variance with their recommendations, There were fifteen commissioners, men the most eminent for their learning and acquirements, who had inquired into these matters, and after they had expended, much time and pains on the subject they unanimously adopted a report, to which they affixed their names and signatures. The report gave the reasons why the commissioners adopted the various recommendations contained in the result of their labours, and all of which recommendations had been embodied in the bill which had wisely been suggested by them. He had entertained not the slightest doubt on this part of their labours, and he had himself introduced a bill which he might almost say had been prepared by the commissioners for the carrying out the object which this bill was brought forward for the purpose of effecting. The same measure had been brought forward twice in the other House by Sir F. Pollock, but in consequence of the late period at which it was brought forward on both occasions it had not passed the other place. In 1836 the bill, however, which he had introduced passed through all its stages in that House, but at too late a period of the Session to be passed into a law. But what did Sir John Nicholl do? After agreeing to the report and signing it he had taken active steps to call upon the Legislature not to carry the recommendations of the commissioners into effect. No new light struck him on the subject until 1838, when he found out that all the recommendations introduced into the report —which he had signed and sealed, and which he had taken such an active part in preparing—were fallacies, and that it was advisable to frame an enactment on principles diametrically opposed to those of the former bill. The only explanation which he had deigned to give was in a letter which he had sent to other commissioners, in which he said that, as an objection had been made to the recommendations of the commissioners—but he did not say from whence or what was the nature of the objections, or upon what they rested—it would be better to introduce another bill, of a different nature from the former. This bill had in consequence been introduced, and it was diametrically opposed to the recommendations which were contained in the report to which Sir John Nicholl had set his seal and signature. Now, he thought that the least this learned individual could do was to lay those lights before his colleagues in the commission to see what effect they might have upon them. He would remind the House that, in addition to the most reverend Prelate, two other right reverend Prelates, of great eminence, were on this commission, and concurred in the report; there was also Chief Justice Tindal. Was the opinion of that learned judge in this matter to be regarded as nothing? There was also his noble Friend who formerly held the office of chief justice of the Common Pleas. Was his opinion to be regarded as nothing; and was he not to be informed of the reasons which induced Sir John Nicholl to change his opinion? Was the opinion of Dr. Lushington, who was one of the commissioners, and who was the most eminent practitioner in the civil courts, and who, indeed, was the author of the report, to be regarded as of no weight or authority on this subject? And here, alluding to the report, he begged to state to the House that just previous to its publication the late Lord Tenterden told him that it was by far the ablest report that had ever come from any commissioner, and he found that this high opinion of its merits was fully borne out when he came to peruse it. He had read this document most attentively, and he found that it was drawn up with much learning, and the reasons that were given for the various recommendations embodied in it were most satisfactory, and fully justified the introduction of every clause that was to be met with in the old bill. It now appeared, however, to that learned person, Sir John Nicholl, that there were some objections to the establishment of the *forum domesticum* in each diocese, but what they were he did not deign to state; but it was determined in this bill that in every case the parties should appear *in curiâ Sanctæ Mariæ de Arcibus*, which was held to be the real *forum domesticum* of each and every one of the English dioceses. This reminded him of the old argument that had been urged in justification of imposing taxes on the then British settlements in America, now the United States, namely, that they were held to be part and parcel of the manor of East Greenwich. That was always part of the old plea in legal proceedings regarding America, and was held to be a sound argument for taxing that country. It now appeared that the new light that had broken on the mind of Sir John Nicholl was something analogous to this, and they were, in consequence, called upon to throw to the winds all the recommendations of all the other commissioners. For his own part, he was most decidedly opposed to this bill, and in favour of the old measure. He did not think, if the recommendations of the commissioners were to be treated in this way, that any man of learning or eminence would consent to serve as a commissioner again. It was clear that those who agreed with the provisions of this bill must differ *in toto cælo* from all the enactments of the former one, and yet they had not heard a single reason why the former should not be adopted in the place of the latter, which was the result of the labour of so many learned individuals. One other ground of objection to this bill was the time in which it was brought forward in this House. If it passed it would be within a week of the time in which the former bill was sent down to the other House, and which was thrown out by it, in the sessions of 1836, because it came down at so late a period to be considered. Such he also ventured to foretell would be the result of the present bill, should it pass that House. They were now, however, called upon to pass this measure, and to give up their own opinions for that of one commissioner, who showed that he was fickle and uncertain in his opinions. Was it then a sufficient reason to give up their opinions merely because Sir John Nicholl had sent the other commissioners a letter, or rather *verbosa et grandis epistola venit*, which mentioned no reasons which could justify a change of opinion on such an important subject? It was very possible, also, that this learned person, who had so hastily changed his opinions on this subject, might do so again; they therefore should not hastily adopt the present plan. At any rate, it was clear that the bill could not pass the House of Commons during the present year, for he was sure that House would look into the report of 1832, and this alone would be sufficient to prevent their getting through the bill this Session. This bill had not been many weeks before Parliament. [The Bishop of *Exeter*: it was not introduced until the present month.] Under these circumstances he could not believe, that the proposers of this measure were sincere in wishing to pass it during the present Session. He repeated, that no reasons had been given which should induce them to change their opinions; and he was sure that they would not so readily induce the other House to abandon their opinions on this subject. With respect to the differences that had existed between the two right rev. Prelates, he would only say that he regretted that it had taken place; but

"Non nostrum inter nos tantos componere lites."

He would only add, that he thought before the learned judge to whom he had so often alluded recommended the Legislature to pass this bill, he should go before his colleagues in the first instance, and propose to them to change their opinions; for he had not yet given any satisfactory reason or authority that could justify his abandoning the report and adopting the bill. Indeed, he was convinced that it was utterly impossible for him to give any such reasons. He must also observe, that he should tell his excellent and learned Friend (Sir John Nicholl) that if he at any time hereafter found his learned Friend's name to a report of a commission, and if he found him the strong and able advocate of the recommendations of that commission, and if he at the same time asked him (Lord Brougham) to bring in a bill founded on such report, he should say to him, "I shall pause, Sir John; for you again within a twelve-month will tell me that you and your colleague were altogether in the wrong, and that you arrived at conclusions directly opposite to those which you should have adopted; no, good Sir John; you must get somebody else to propose your measures." He trusted, in conclusion, that they would not proceed with that bill, but would adopt the amendment of the right reverend Prelate.

The Bishop of *Lincoln* was understood to declare that, as one of the commissioners, he felt not the slightest hesitation in giving his support to this bill. He was as anxious to maintain the rights and privileges of the Anglican Church as any of his right reverend brethren; but he was convinced that this measure would not produce the slightest injury to any of those rights. He doubted much whether the second clause of this bill would be attended with any of those inconveniences which had been descanted on with so much eloquence by his right rev. Friend (the Bishop of Exeter), or that it would prevent a diocesan having recourse to the *forum domesticum.*

Lord *Wynford* recommended, under all the circumstances, the withdrawal of the bill for the present Session. The great grievance pointed out by the commissioners and complained of by the Court of Chancery itself was, that *vivâ voce* evidence was not taken in the courts of Doctors' Commons. The alteration which the commissioners had recommended in this respect was the very best that could be made, and he was at a loss to know why that recommendation should be given up. The present course was most expensive to the litigating parties, and inconvenient to the progress of public justice. In regard to appeals, he did not think that nine out of ten cases which came before the courts would be appealed, while the expenses of sending a commission into Cornwall or other distant counties would be, to many, ruinous. As to the shortening of time in the trial of those cases, the most rev. Prelate stated, that any question at issue would be settled in six months, but he feared such a period would be found much too short for Doctors' Commons. He was persuaded, that there would be neither a saving of time nor of expense by the plan proposed, and if the bill passed he made no doubt that he should hear of cases remaining five years unsettled. He was unwilling to trespass upon the time of their Lordships, but there was one clause of the bill to which he felt bound to call their attention. If sentence of deprivation was passed, it was provided by one of the clauses of the bill that the expense should be paid out of the living. To such a provision he decidedly objected, and if their Lordships were to sanction such a clause, he would ask what answer they could give if they were again asked to pass a measure for the abolition of Church-rates, and placing the maintenance of the fabric of the Church as a burden upon the property of the Church itself? He considered this a most objectionable interference with church property, and if they allowed the poor livings to be taxed for the purposes of this bill, it would be impossible to refuse to tax the property of the Church for the support of the fabric of the Church. What pretence was there for such a scheme, or on what principle could it be sanctioned? He thought it was most unjust to make the succeeding incumbent pay for the faults of others, and he could see no principle upon which a clause containing such enactments could be supported, and he was persuaded, that if the bill containing such a clause passed, the results would be most injurious to the Church.

The Duke of *Wellington* was not at all astonished that the most rev. Prelate should press their Lordships to pass the bill now under their consideration during the present Session. It was above ten years since the subject to which this bill related was under consideration by a committee of their Lordships' House, and since the report on which the bill was founded had been given in, and he was not therefore surprised that the most rev. Prelate, after having seen several attempts made to pass a measure on this subject, and after having seen the failure of all those attempts—he was not, he said, under those circumstances, surprised that the most rev. Prelate should have thought it expedient to attempt to prevail upon their Lordships to pass the bill under consideration, or that he should have requested the noble and learned Lord on the Woolsack to prepare and bring in such a bill. He must confess, however, that considering the importance of the subject, and the lateness of the period at which the measure had been brought forward—considering, too, that this was the first occasion on which the House had had an opportunity of deliberating on the bill, and considering also the difference of opinion which prevailed upon the right rev. Bench, he was most anxious, keeping all these circumstances in view, that their Lordships should postpone the measure till some future time. Having listened with the greatest attention to the discussion which had that evening taken place, he was obliged to confess that he had heard no answer to some of the most important objections which had been urged against the bill by the right rev. Prelate who had moved that the third reading should be postponed for six months. In the first place, he did not think it was quite clear that the *forum domesticum,* which the whole of the right rev. Prelates admitted should still continue to exist, could exist were the bill passed, and the sixth clause remain unaltered. The right rev. Prelate who had last spoken, had said, that he doubted whether the sixth clause did not deprive the bishops of their authority in this particular court. The right rev. Prelate said, there might be doubts upon the subject; but surely, if such doubts existed on a point of so much importance, they ought to be cleared up, and it ought fully to be understood what authority would remain to the bishops should the bill pass. That, then, was an argument for delay, and for more mature deliberation. The right rev. Prelate had read a letter from the principal commissioner, who was stated to have framed the report on which the bill was founded, and whose opinions were entitled to the highest respect, and it appeared that he also thought that the *forum domesticum* ought to be preserved. It appeared also, that in the first bill which had been introduced on this subject, certain words were inserted which tended to secure the authority of the bishops and the continuance of those courts, but for some reason, which had not yet been explained, those words had been omitted in the present bill, and he could not but doubt the propriety of that omission. He, therefore, thought that their Lordships ought to pause before proceeding further with the measure, which in his estimation required more mature deliberation than it had yet received. Then he must confess, also, that he had great objections to the clause which had been alluded to by the noble and learned Lord near him (Lord Wynford). He could see no reason for the extraordinary provisions of that clause, nor could he approve of the principle upon which it was framed. It might be proper to provide for the payment of costs, but it was only when all other means had been tried, and every other source exhausted, and not till then, that they should make the costs fall upon the property of another, on the property of persons who were innocent—namely, the patron of the living, or the incumbent succeeding the delinquent. He never could consent to the bill without a material alteration in the clause to which he alluded. But, considering that that objection was a mere trifle compared with others that had been urged, and considering that by far the most important provisions of the bill were contained in the first and second clauses, to which their Lordships' attention had scarcely been directed, he would decidedly recommend the postponement of the measure till a future period of the present Session, or till the next Session of Parliament.

The *Lord Chancellor* said, that the question whether this bill should pass into a law this Session, was one of very considerable importance, because another measure, which the House had before it in the year 1836, had been necessarily postponed until some measure of the kind should be introduced. In that year their Lordships appointed a Select Committee, to inquire into the general question of Ecclesiastical Courts, and resolutions were adopted which were embodied in a bill which would have taken its regular course, if it had not been found that it was impossible to proceed until a bill of the description of that now before the House should be agreed upon. In order to meet the difficulty, he with the approbation of a portion of the right reverend Bench of Bishops, for he must confess they did not all concur in his views, submitted to their Lordships a bill for the purpose of establishing a jurisdiction to meet the difficulties which were in existence, and to provide for the regulation of that description of property mentioned in the present bill. When he proposed that measure, he had entertained great hopes that it would have passed into a law, for it appeared to be a scheme which would remedy many of the evils which had existed, and would effectually provide for the discipline of the Church. When its object became generally known, however, various difficulties were started by those who were most interested in it. It became exceedingly unpopular among the clergy, it received no countenance in the House, and it appeared that it was never likely to pass into a law. He had always held himself ready to give every assistance to remove any acknowledged evil, and to afford a proper tribunal, but the last Session and the early part of the present Session of Parliament passed away without anything being suggested which would remedy the evils complained of, and then the most rev. Prelate devised the present plan, which was acceded to by some of the right rev. Bishops, and which, besides, it was admitted, was most likely to be beneficial in reference to the subject now before the House. It appeared to him that the bill would be most likely to succeed, and to secure the desired object; it did no possible injury to any man, and it provided a jurisdiction less expensive and more effectual than any which had hitherto existed, and it changed that which it was almost universally admitted wanted improvement — the Ecclesiastical Courts. Therefore it was, that he did commit that great offence which had brought down upon him all the vituperation of the right rev. Prelate, of helping to bring in this measure, and therefore it was, that he had also been guilty of having assisted in passing the bill through its former stages, and now of proceeding with it to its third reading. The right rev. Prelate knew well what part he had taken in the matter, and he knew quite well from what quarter the bill proceeded; but knowing this, and moved by some passion which might be agreeable in some, but not in others, to exercise, he made an attack upon him in reference to the matter. Now, these things had not the slightest effect upon him, and if the right rev. Prelate thought that he was like some other men he was much mistaken, for he could assure the right rev. Prelate that he had no feelings at all upon the subject, and he would not be led away by the temptation which had been held out to him to say one word in answer to those remarks which had been made. Now, leaving the vituperation of the right rev. Prelate, he would address himself shortly to the subject matter of complaint before the House. The noble Duke had said very rightly and properly, that this was not only a matter of great importance, but also of great difficulty. He held in his hand the Report which had been made to their Lordships in the year 1832, and the noble and learned Lord had said that, considering the great name that was attached to that report, it must be received with great respect. If anything, however, would detract from the weight to be attached to that report, it was, that he was not aware of any one member of the commission who now adhered to the opinions which he had there expressed, and to the proposition which had been made. He could name a majority of those whose names were appended to the Report who had so altered their views, and he believed that there was only one individual who retained the opinions he had expressed. He had stated, that there was no member who had signed the Report whose present opinion could be quoted in favour of it. No doubt it proposed great improvements in the system which had formerly existed; but the House must remember the very great inconvenience and expense which had belonged to the ecclesiastical courts, with regard to which there could be no exaggeration. It was a grievance which all admitted, and to which all were agreed, some remedy should be applied, the only question being how it was to be done. Now, he repeated that this was a preliminary measure only, and the real question was, whether matters should be allowed to continue as they were, or whether the plan proposed would not be a material improvement? He had no hesitation in saying, that the effect of it would be a great saving of the expense and delay which were now necessarily incurred, for the very proposition which it made was neither more nor less than that, instead of the parties going to the Bishop's Court first, they should go at once to the Arches Court, all the intermediate proceedings and consequent costs being therefore saved. Yet this was the clause at which the bishops were alarmed, and which they opposed, as detracting from the importance of their office, and as taking away their authority. It was said, that it was too late in the Session for the other House to take up this bill. This might be a very good reason for the other House not to proceed with the bill when they received it; but it appeared to him, that it was no ground for their Lordships not to proceed with it. There was another measure of extreme importance connected with the Church which could not be proceeded with till this was passed; and he very much feared, owing to the tardy proceedings of the House in the early part of the Session, both these measures ran a great risk of being delayed another year. On these considerations, he hoped their Lordships would not postpone the passing of this measure.

The Archbishop of *Canterbury* said, that although he had not, in the course of this debate, heard anything to shake his opinion of the desirableness of passing the present measure, yet as it seemed to him that the general feeling of the House was against proceeding with it, he was not disposed to press it at the present time.

The amendment agreed to, and bill put off.

PRISONS (SCOTLAND).] On the Order of the Day for going into Committee on the Prisons (Scotland) Bill,

Lord *Brougham* thought it was high time that some improvement should be effected in the prisons of Scotland; but although he was anxious that a measure with such a tendency should be passed, he did not think the present bill by any means likely to answer the object for which it was intended. No one could, for a moment, hesitate to admit the necessity of introducing something like discipline into the gaols; but he was at a loss to know how a bill so preposterous, so monstrous as the present, could have been swallowed wholesale by another House, for which he had the highest respect, although the bills emanating from that House were sent up to their Lordships rather late in the Session. It was his intention to propose many alterations in this bill, if their Lordships went into Committee upon it. He had strong objections to the extraordinary powers given to the Central Board of Commissioners, who were irresponsible for their acts, and could not be removed without a special act of Parliament.

The Duke of *Buccleuch* said, that since the bill had been read a second time, he had devoted the greatest attention to a subject of so much importance. He resided in Scotland, and had ample opportunities of knowing the state of the prisons there, which certainly reflected disgrace on the country: he agreed, however, with the noble and learned Lord, that the present bill was not likely to remedy the evil. Had it been sent up earlier in the Session, he should have recommended its being referred to a select committee; but under existing circumstances, he felt himself reluctantly bound to oppose the measure in all its future stages. He agreed with the noble and learned Lord as to the indiscretion of giving such extraordinary powers to irresponsible commissioners. It was said, that if the present bill were not passed, it would be impossible to improve the prisons in Scotland. He was not satisfied as to the correctness of that assertion; for by an Act passed some time since, new prisons might be erected in that country, and a bill might be introduced during the present Session, making such a step compulsory, not optional. The noble Duke concluded by moving, that the bill be committed that day three months.

The Duke of *Richmond* regretted extremely the course taken by the noble and learned Lord, and by the noble Duke, who admitted the present disgraceful state of the prisons in Scotland. A great deal had been said about the extraordinary powers given to the Central Board of Commissioners; but it would be easy in

Committee to introduce amendments to check that power. The state of the gaols in Scotland (with the exception of those in Edinburgh, Glasgow, and Aberdeen) was such, that rather than the present measure should not pass, he would wish to see a bill introduced preventing imprisonment altogether for the next twelve months, as felons came out of the gaols much more depraved than they were on their committal. He still thought, that there was abundance of time left within which to mature a useful bill, and it really was a matter of the highest necessity, that their Lordships should immediately apply themselves to the accomplishment of that object. He believed, that he need not then more urgently press upon their attention the great degree in which an uniform system was demanded in Scotland; for example, what could be more unjust than that judges should inflict the same length of imprisonment in different gaols for similar offences, seeing that no two prisons were alike in their system of discipline? He felt persuaded that the people of Scotland would not complain at having to pay 30,000*l.* a-year for the improvement of their prisons, and he hoped, that the noble Duke, though he might not consent to their going into a Committee of the whole House, might still agree to refer the measure to a Select Committee, which certainly could report before the Session was brought to a close.

Lord *Wharncliffe* objected to the bill altogether. There was not the least use in appointing a board, for the inspector and the secretary would really do the whole of the duty, and he thought, that if the bill did go into Committee, they ought to strike out the whole of that part which related to penitentiaries.

The Earl of *Minto* said, that Scottish gaols, both the buildings and the management were of the very worst description, and he felt satisfied, that to prolong the prison system of Scotland for six months would be a much greater evil than could result from the most ill-devised measure that Parliament could possibly adopt. He therefore recommended the House to refer the bill to a Select Committee.

The Earl of *Haddington* said, that according to the bill itself, as it stood, the proposed enactments could not come into operation before a year and a half; if they waited till next Session, they might prepare a bill which could operate nearly as soon as that, and yet be free from the disadvantages which marked the present measure.

Their Lordships divided:—Content 30; Not content 26: Majority 4.

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Montagu

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Colchester

The House resolved itself into Committee.

The Duke of *Richmond* said, that it was of very great importance that their Lordships should inform the other House of Parliament of the details of a measure to be introduced in the next year upon this subject, which would have some chance of meeting their Lordships' views. Under all the circumstances, he thought it most advisable that the whole subject should be referred to a Select Committee.

Lord *Wharncliffe* said, that the question appeared to him to be whether this was a proper measure or not. In his opinion they would find that, if the bill now before the House were to pass into a law, it never would work with efficiency. The noble Duke had proposed to refer the bill to a Select Committee. If he (Lord Wharncliffe) thought, that in a Select Committee they could agree to such a bill as would be likely to pass during this Session of Parliament, then he should be perfectly willing to concur in that proposition, but as that was not likely, it would be an entire loss of time. The noble Lord said, "Let us show the House of Commons what is the principle of assessment which we wish to see carried out." But it was not an easy thing to agree upon such a principle, it would take a great deal of time, and would require much more information than their Lordships now possessed, and especially from those parties who had petitioned against the bill.

The Earl of *Minto* observed, that the question of assessment had been before a Select Committee of the House of Commons, and had been thoroughly considered by the Scotch Members, and had met with their approbation.

The Duke of *Buccleuch* said, that he was perfectly aware of the evils which now existed in the prisons of Scotland, which he was most anxious should be removed, but he did not think that the provisions of this bill would remove them in the manner in which they ought to be removed. He did not think that a delay of this bill till an early part of next Session would produce very serious results, as the real powers of the act could not be put in force till January 1, 1840.

The House resumed, bill referred to a Select Committee.

CAPTURED SLAVE VESSELS.] The Earl of Minto moved the third reading of the Slave Vessels Captured Bill.

Lord *Colchester* said, that in consequence of the observations which had been made on the subject of the conduct of the officers of the cruisers on the coast of Africa, he wished to address a few observations to their Lordships. It had been argued that the system of bounty, or head-money, was impolitic, because it did not accrue until the vessel had her cargo of slaves on board, and, consequently, the greater part of the crime had been committed; and that the system, consequently, had exercised an influence on the conduct of the officers upon the station, who had been charged with allowing the slave-vessel to embark her cargo of slaves, for the purpose of securing the head-money. If these remarks had been made merely theoretically, he should not have felt it his duty to have troubled their Lordships; but the language which the noble and learned Lord opposite had used on a former occasion appeared to him to convey a very serious insinuation against the officers of her Majesty's navy on that coast, because he had distinctly imputed to them that they had refrained from making any efforts to interrupt the slave vessels in the course of loading. Now there was no doubt, that for a long period the cruisers did make no attempt to capture the slave vessels until after they were laden; and, therefore, to a casual observer, it might appear that they had been actuated by these motives; but then, that depended entirely on the assumption, that they had some authority to take the vessels without their cargo on board. If he proved, that for a long period after the Legislature had granted the bounty, the cruisers had no authority to take the vessels until their cargoes were embarked, but, on the contrary were strictly prohibited from taking them; but that since they had received that authority the capture of vessels without cargoes had been more frequent than that of vessels with cargoes, their Lordships would see that he had vindicated the officers in this service from the charge of a breach of duty, and still more from being actuated by mercenary motives. The noble Lord cited the opinion of Lord Stowell to show that under the general law of nations cruisers had no right to interrupt the proceedings of the slave vessels, but that whatever right they had was acquired by treaties. Treaties had accordingly been entered into with Spain, Portugal, and other countries, by which a limited right to search was granted, and under which tribunals were erected for the purpose of trying the legality of seizures. But there was an article in all these treaties which prohibited the seizure of any vessel until the slaves were actually on board; and so strictly had that been construed, that it had been held not sufficient to justify the capture, though the crew of the cruisers might see the cargo of slaves landed. That view of the subject had been expressed by Lord Palmerston in certain instructions issued under Earl Grey's Government. In 1823 the Netherlands agreed to additional articles, by which vessels which were found equipped in the manner usually adopted for that service were made liable to be detained and sent in for trial. Their equipment was to be considered *prima facie* evidence, and the *onus* of proof was thrown on the vessel detained. That authority having been given in 1823, the slave trade under the flag of the Netherlands had been put down before 1830; and between the years 1823 and 1830 the total number of captives had been twenty, of which number thirteen vessels were taken with slaves on board, and seven under the equipment article. The same authority having been given with regard to Spanish vessels in the year 1836, in that year thirty-seven Spanish vessels only had been detained, of which four were released and thirty-three condemned. Of those thirty-three, twenty-four vessels were taken under the equipment articles, and nine only with slaves on board; and therefore with regard to Spanish vessels, the captures of those, which would yield head money was in proportion to those which would yield none, as nine to twenty-three. Even up to the present time the cruisers had no authority to capture vessels under the flag of Portugal until the cargo was on board. In proof of the zeal and activity of their officers he would quote a letter which he had received from Sir Charles Buller, which stated, that his own vessel alone had captured nine vessels on the score of equipment and seven with slaves on board. He begged now only to remind their Lordships of the hardships to which those who were engaged in this service were exposed, from the nature of the climate as well as the service itself; and that very many gallant actions had taken place, the brilliancy of which had rarely been exceeded. In conclusion he would express his surprise and regret, that these documents having been so long on the Table of the House, the noble and learned Lord had not taken more pains in looking into them, before he had come forward and brought such serious charges against gallant men, many of whom had been twenty years in the service.

Lord *Brougham* was not aware of the existence of these returns; he would, however, read them, as he was sure, from the specimen the noble Lord had given of them, they would greatly support his argument. He should refer to them, and take an opportunity before the Session closed to call the attention of the House again to the subject, and of bringing before it information he had received on the subject from persons on the coast of Africa—two of them naval officers. He should probably have an opportunity of repeating their statements to their Lordships, and of giving their names also; but it should be remembered, that he had only repeated the statements of other persons. He did not think the observations of the noble Lord satisfactory, because he knew very well what the tendency of the head-money was. Head-money caused the cruiser to go out of sight, instead of remaining in the chops of the channel or the bight of the bay, and so far off that the entrance to the port was only to be seen from the mast-head. If the cruiser remained in the fork of the port, the slaves would be relanded, because the slave-ship could not remain there for ever. The statements which he had made were founded on the report of Messrs. Oldfield and Laird, the only survivors of the great African expedition.

The Earl of *Minto* was sorry that the noble and gallant Lord had caused the resumption of a discussion on a subject which had been already very fully debated; at the same time, he thought it unfair to make those charges against the navy which had been advanced. There was certainly always some danger connected with the system of rewards, and he did not deny, that head-money or prize-money might operate on some persons, but amongst brave and high-spirited men there was a sense of duty and a desire to rise to an honourable standing in their profession, which would prevail over meaner motives. He had watched the conduct of the cruisers, and in no instance had he found that they had neglected to seize a slave-vessel when they had an opportunity. Mr. Laird, in his communication, stated, that the tendency of the system of the cruisers waiting off the coast, was, to allow the slaves in many instances to escape, and contended that a system of blockade should be adopted. He (Lord Minto) differed from Mr. Laird in this particular, as he considered a blockade impracticable, and even if practicable, that it ought not to be adopted, as it would necessarily cause a tremendous loss of life. Their Lordships could have no idea of the loss of life on the African coast, and he might mention, as an illustration of the dreadful mortality which prevailed, that the loss sustained by a small squadron of eleven vessels, whose crews amounted to 605 persons, was, during the last year, not less than 142 individuals. Of these, five were lieutenants, seven masters and second-masters, eight assistant-surgeons, and five mates. Such was the loss sustained by a small squadron during the last year, notwithstanding all the precautions which were taken to prevent contagion; and if the vessels were stationed in the mouths of the rivers, or even a blockade established, the mortality would inevitably be much greater. He did not know that he was called upon to say more, but he desired that it should be distinctly understood that in no one instance had he been able to trace the influence of head-money, preventing any officer on the African coast from honestly and faithfully discharging his duty. As for the tendency of any circumstance, he must say, that this was not decisive of the question. An arrangement might be such as naturally to seem likely to lead to wrong conduct, and yet might not produce it in honourable minds. Thus the great emoluments and high station of the noble and learned Lord on the woolsack, had a natural tendency to induce other members of the profession of the law not only to aspire at the office of Chancellor, but to attack the Government, in order to turn out the Lord Chancellor and take his place. But it did not by any means follow, that men did attack the Government for this purpose and with this view. The noble and learned Lord had alluded to a former debate, and had spoken as if he had justified some expressions which had been made use of in the other House; but at the time that that debate took place he did not know that the language which the noble and learned Lord complained of had been used, and what he meant to have said was, that it could hardly have been a matter of surprise, after the way in which the noble and learned Lord had spoken of the officers of the navy, if honourable and gallant men expressed themselves with some degree of asperity.

Lord *Brougham* had always maintained that the tendency was quite decisive against the head-money system, on this plain ground, that it was either inoperative, and wholly useless, or, if not inoperative, mischievous. It could only cease to be hurtful by being useless. But he denied that he rested his case upon tendency. He showed, upon the evidence of those who had been on the coast, that cruisers stood out to sea to let the slave-ships load, and to entice them out—that is, to make them fill their holds with wretched creatures, torn by force or kidnapped by fraud from their country, and then to make them, in their escape, fling those poor victims overboard by scores to facilitate their flight from justice. This was his (Lord Brougham's) case. To say that there was only a tendency, was, therefore, a mere shallow pretext. The intention of the head-money was executed, and the tendency produced in the actual event of its natural and evil consequences. He might have relied on the evidence of the travellers whom he had cited, but he disdained to do so when his own mind went along with their statements. He was of the same opinion, and the facts on which that rested were no longer disputed, for the noble Earl (Minto) himself admitted them, and so did the noble Baron (Colchester). But there was one part of the noble Earl's speech (Minto) which he at first was puzzled to comprehend. When he found him so far off from the African coast, as to be hovering about the Woolsack, and descanting upon the emoluments and powers of the Great Seal, he could not for the life of him conceive what the noble Earl was after. At first, he only thought this portion of his speech extremely stupid —(he spoke it with all respect)—very flat and tedious, and insipid, and, at so late an hour, somewhat of the most tiresome—but he soon perceived that it was all the while sarcasm in disguise. We had heard of "war in disguise," and this, it seemed, was "wit in disguise"—so thick a disguise indeed, that he questioned if all their Lordships, for whose behoof it was intended, had as yet pierced through to come at it. He, however, had. It seemed as if the noble Earl should say, to the noble Baron (Colchester), "I have no means of helping you in the way of fact—and as for arguing, I am no great hand at that; but my wit is much at your service; at sarcasm, I am no bad hand—I have never before let this out, but the truth is my talent lies that way, and you shall see how merry, and cutting, and sarcastic a creature I can be to serve you." So then his humour was this—the office of Chancellor is a very tempting prize to play for—great pain—vast rank—immense power—all this has a tendency to make men attack the holder and his colleagues, in order to turn them out—that is to say—for this meaning was quite plain, and here lay the whole sting—"You (Lord Brougham) might naturally be supposed to attack the Government for the sake of turning them out, and clutching the Great Seal—you never tried what it was like before—you must naturally be desirous of rising to the top of your profession, which you have been so long looking up to, and so you attack us in order to reach it." Now, he at once admitted that the temptation of that exalted station was great to honourable minds.—The emoluments of his noble and learned Friend's place were, of course, nothing—they were like the head-money to the cruizers—they cared not a straw about it—in their way it lay, and they took it because they could not help doing so. So his noble and learned Friend did by the salary, which he cared not at all for, only he could not well avoid putting it in his pocket. But to have great power—to possess, like his predecessors, the entire confidence of Parliament and the country—to have not merely high place, but those prerogatives and powers, without which it is not felt as any honour, but rather as a humiliation, by honourable minds—to carry all the measures of reform, in Church and State, which he desired—to bring in important bills for amending the law—and above all, for improving the Court he presided over, and have them carried and not rejected by majorities of 96 to 36—to leave the jurisprudence of the realm universally improved, and all men the better for his having been in office—to illustrate his own name in the eyes of future ages by the great measures which he had instituted of wise, enlightened, and enlarged policy, measures which the confidence of Parliament and the country had enabled him to carry—these, he confessed, were attributes of his noble and learned Friend's high office, which any man of a generous ambition might well envy, and to these contemplations, he did not deny that his mind was accessible. But great wits are said to have short memories, and very great wits, like the noble Earl, have surely the shortest memories of all; else, how came the noble Earl to forget that if his attacks should turn out the Government, not he, but his noble and learned Friend not present (Lord Lyndhurst) would take the Woolsack. That was quite clear; and why the powers and profits of the Great Seal should tempt him to turn out his noble and learned and much-esteemed friend (Lord Cottenham) for the purpose of planting his other noble Friend (Lord Lyndhurst) on the Woolsack, the noble Earl had been too light and volatile in his frolicsome humour to think of explaining. He had never before done anything to make the noble Lord now absent (Lord Lyndhurst) Chancellor. He had certainly never recommended him in any way to that high office. But he as certainly had recommended, and effectually recommended, the other noble Lord (Lord Cottenham) to the office, and he verily believed he had never rendered a better service to the suitors of the Court where he presided, than by this proceeding, for he conceived that his noble and learned Friend made an excellent Judge in Equity, and gave general satisfaction. Why, then, should he, having set up the nine-pin, be so anxious to knock it down again? All this the noble Earl passed over, in the wit of the lightsome and merry mood he was in. Possibly, indeed, the noble Earl was not in the secret. But this was not the noble Earl's only omission as to facts—and facts which he must be aware of—though the noble Earl might not be acquainted with the one he had just adverted to. If his quarrel with the Government had anything at all to do with the Great Seal, why did he not oppose them in 1835, when the Ministry was formed? Why not in 1836, when the Seal was given to its present holder? Why not in 1837? These were known facts and dates, which there was no getting over—and the retail dealers in falsehood, who defended the Government through the press, wilfully shut their eyes to these well-known things. But, till this evening, he had never known any Minister who deemed it becoming or discreet to take the same line. Yet, surely the noble Earl must know that the quarrel, if quarrel there had been, on account of office, and the Great Seal, was complete in May, 1835; and yet, how had he (Lord Brougham) acted? If his opposition to the Government had any connexion whatever with his not being Chancellor, how did it happen that in the whole Session of 1835 he had stood by the Government, helping them at every turn—lifting them whenever he could out of the mire—keeping their heads above water to the best of his small means—saving, as far as his utmost exertions could, their existence for some months, during which they were fluttering between life and death—defending them at a moment when the least attack must have tumbled them down from their slippery position? Had he not, at the end of a laborious Session of judicial business, in which he had presided voluntarily in the House, notoriously sacrificed his own health by undertaking the defence of the Government, during the laborious month's combat on the English Municipal Bill? Had he not fought that bill through all its stages, for and with the Government, whose whole existence depended upon the measure? Then, in 1836, though absent at first for three months through illness, brought on by his support of the Government the autumn before, yet for the last two months of the Session, he (Lord Brougham) was quite recovered, and announced to the Government his ability to attend Parliament, but he did not—and why? Because on two important Reform questions, he was compelled to differ from the Ministry—and he was informed by them that his opposition might be fatal as they were then circumstanced. All this was probably new to the noble Earl. The noble Earl was not in the secret. His colleagues told him what they liked about navy matters, and gave him their opinion about Quadruple Treaties, setting him down somewhat bluntly and unceremoniously—but this, which happened in 1836, they had not told the noble Earl; yet, certain it was, that he (Lord Brougham) at their desire had kept away, in order to keep them in their places. And yet the noble Earl, not being in the secret, supposed, with some of the Government newspapers, that his (Lord Brougham's) not being in office was the cause of his differing with the Ministers, and made him wish to turn them out, in order that he might again seize the Great Seal. Those newspaper authorities, however, from which the noble Earl took his facts should have known, and so should the noble Earl, that his (Lord Brougham's) opposition, even in 1837, was confined to entering a reluctant protest against the Canada Bill, which had produced a civil war, and that in all other measures he had during that Session supported the Ministry. His opposition only began, as every man in the country knew, and as these slanderous assailants alone wilfully forgot, when in November last the Government took a new line against Reform of Parliament, and other Reforms; and when on that and on their extravagant Civil List, and their Canada Bills, and the Slave Question, they had compelled him to oppose them, if he (Lord Brougham) did not mean to abandon all his most sacred and most constantly avowed principles and feelings upon the whole policy of the State. These things were quite notorious—they were facts, and at once dispelled the charges made by wilful fabricators out of doors, and at length with an indiscretion to which great wits, like the noble Earl, are too subject, brought forward by a Cabinet Minister in that House.

Lord *Colville* defended the officers of the navy, and said, that the suppression of slavers on the African coast was one of the most disgusting services in which they could be engaged. He had heard with great satisfaction what the noble Earl had said in regard to the conduct of the officers of the navy employed in that service, as he did not think the noble Earl had said so much as he ought to have done on a former occasion. In regard to the mortality to which the noble Earl had alluded, he hoped their Lordships would see from the facts that had been stated, how impossible it was for the cruizers to adopt a system of blockade, or to enter the mouths of the rivers, without hazarding in a tenfold degree the lives of their crews. It was only fair, that the noble and learned Lord, before he alluded to subjects on which he expressed himself so strongly, should be better informed on them; for he had certainly shown a want of professional knowledge in these discussions, by which he had been led away, and had thrown out against the characters of officers aspersions that were not deserved. The noble and learned Lord might be assured, that many of those atrocities had arisen out of well-intentioned, but too hasty and precipitate measures, of which the noble and learned Lord had been the most zealous advocate. In his opinion, emancipation had been granted too hastily, and if we had waited longer, the other powers of Europe might have joined with us, and thereby have prevented much of the abuse that had taken place.

Bill read a third time and passed.

HOUSE OF COMMONS,

Thursday, July 26, 1838.

Minutes.] Bills. Read a second time:—Oaths Validity.—Read a third time:—Gibraltar Lighthouse; Judges Jurisdiction; Extension.

Petitions presented. By Mr. Baines, from Huddersfield and Macclesfield, by Mr. Mills, from Malmesbury, by Lord Teignmouth, from Bayswater, by Lord Morpeth, from Doncaster, by Sir F. Burdett, from Bradford, by Mr. G. W. Wood, from Kendal, and by Lord Robert Grosvenor, from Chester, against encouraging Idolatry in India.—By Mr. C. Lushington, from five Inhabitants of Scarborough, to be protected from a notification signed by the Clergymen in the neighbourhood of Scarborough, that the Registration Act was not evidence of Baptism.—By Mr. Baines, from Huddersfield, and by Sir C. Lemon, from Penzance, and other places in Cornwall, against the Beer Act.—By Mr. Leigh, from the Rural Dean and Clergy of Malmesbury, against the Parochial Assessments Bill.—By Mr. Ward, from Bangor, in the province of Ulster, in favour of the Appropriation Principle.—By Viscount Morpeth, from Temperance Societies in Dublin, against the Suspension of the Spirit Licences Act.—By Sir T. D. Acland, from Bath, against the grant of any further powers to the Ecclesiastical Commissioners; from the Clergy of an Archdeaconry in Somersetshire, against the Parochial Assessments Bill.—By Mr. Hume, from Kilkenny, that the Banking system in Ireland might be placed on the same footing as in England and Scotland.—By Sir R. Inglis, several, from different bodies of Clergy, by Mr. Goulburn, from Clergymen of an Archdeaconry in the Diocese of Exeter, from Clergymen in the northern division of the Diocese of London, and from Clergymen in the western division of the Diocese of Oxford, against the Parochial Assessments Bill; from Brailesford (Derbyshire), against the Annual Grant to Maynooth College; and from Preston, in favour of an Amended Factory Bill.—By Captain Alsager, from the Rural Deanery of Andover, against the Parochial Assessments Bill.

Idolatry in India.] Mr. *Baines* had some questions to put to the right hon. Baronet the President of the Board of Control upon a subject which involved the character and honour of this country. He had given notice of his intention to put those questions some months before, but had never had an opportunity. They concerned he thought the honour of the East-India Company. His first question was, whether, in the year 1833, there had not been sent out to India an instruction to the following effect, namely, "that the interference of British functionaries in the interior management of native temples, in the customs, habits, and religious proceedings of their priests and attendants, in the arrangement of their ceremonies, rites, and festivals, and generally in the economy of heathen worship, shall cease; that the pilgrim-tax shall be everywhere abolished; and that, in all matters relating to their temples, their worship, their festivals, and their religious practices, the native subjects be left entirely to themselves"? The next question was, whether, although five years had now elapsed since the instruction went out, it had not been uniformly disobeyed? The next inquiry was, how it was, that no attention had been paid to the instruction, since it was so strict and imperative? The next inquiry was, whether any further order had been sent out to enforce the first order, and, if so, what was its date? Lastly he wished to know whether there would be any objection to place on the table a copy of the last order, and whether any measures had been taken to enforce it, so that for the future the people of this country might have some ground upon which they might rely, to hope that the grievance complained of would be redressed?

Sir *J. Hobhouse* said, that before he gave an answer to the questions that had been put to him, he ought to preface it by expressing his pleasure at the discreet line of conduct which his hon. Friend had pursued, as he could assure his hon. Friend that he had done very well indeed in not making this subject a matter of public discussion, as he must be aware, as well as he (Sir J. Hobhouse) was, that this was one of the most delicate subjects that could be treated of with reference to our Indian government. He thought, therefore, that his hon. Friend had acted perfectly wisely in not making a separate and entire debate on this subject. The questions put by his hon. Friend were of such a nature that he thought he should be able to give a satisfactory answer to them. It was perfectly true, that in 1833 a dispatch had been sent from this country to the government of India with the purport and intention ascribed to it by his hon. Friend. It was perfectly true, with reference to his other question, that this dispatch had not hitherto been acted upon. With reference to the other question, whether or not the court of directors had subsequently taken any steps to carry their former orders into effect? he had to inform his hon. Friend, as he had done before when a similar question had been put to him, that the court of directors had sent out two despatches, directing that their former order should be carried into effect with as little delay as convenient. Nevertheless, he had to confess that there still remained something to do with respect to this subject, and he was free to own that in his opinion the time was come when the court of directors must issue from this country a dispatch in more positive terms than had hitherto been used, and which should prevent the possibility of any mistake or misapprehension as to its intention. Having these opinions, he had no hesitation in saying that he had pressed on the court of directors the necessity of taking such a course. Within a few days—he might say hours—the subject had been discussed in the court of directors, and he could assure his hon. Friend that he should make a point, as responsible Minister of the Crown, and he hoped the court of directors would agree with him, but at any rate he would say distinctly that he should make a point of using that discretion which, by the act of Parliament, belonged to him in his position as President of the Board of Control, to direct such a dispatch to be sent to India as would render it impossible for any functionary there to make a mistake. He could assure his hon. Friend that there should, as far at least as depended upon the home authority, be no mistake as to the compulsory attendance of any functionary, military or civil, upon a worship of which he conscientiously disapproved. There should be no compulsory participation in such worship; and he would take care, and he trusted the court of directors would agree with him, to have such a dispatch sent out to India as would perfectly satisfy the most tender conscience. Having said thus much, there only remained for him to refer to that part of his hon. Friend's statement which related to laying any dispatch that might be sent out on the table of the House. His hon. Friend, if he considered it, must see that this would be not only a very inconvenient, but at the same time an unconstitutional course to pursue, to lay on the table dispatches before they were sent out, or seen, or acted upon. He had, however, no hesitation in saying, that he should, when the proper time came, have not the least objection to making these dispatches public. He had not only no objection, but in justification of himself on this most important subject, he thought it necessary that there should be no secret, no concealment as to what had been done by himself and the Government, and in fact, he should make the dispatches public, not only to satisfy the public, but in order to show that he at least had a proper sense of the duties imposed upon him.

Mr. *Baines* said, that the answer was perfectly satisfactory.

Subject dropped.

TITHES (IRELAND.)] Lord J. Russell moved the Order of the Day for the third reading of the Tithes (Ireland) Bill.

Mr. *D. Browne* rose, in pursuance of the notice which he had given, to move, that the bill be read that day six months. He threw himself upon the indulgence of the House, and he hoped that it would grant to him its attention for a very short period. In the first place, he seldom intruded upon it; and, secondly, he was forced to do so by a conscientious conviction that he had a public duty to perform, from which he could not shrink, by the wish of his constituents, and by that distinct expression of public opinion throughout Ireland, which forced upon the minds of all the representatives from that country a far different consideration of this measure than that proposed in the bill suggested by her Majesty's Government. He most unaffectedly assured the House, that he despaired of obtaining their attention when he considered how disproportionate his own abilities were to the magnitude of the question he presumed to entertain, and when this painful reflection arose in his mind, that however important any Irish question might be, as affecting in its abstract principle, the social happiness of that country, it did not on that account so much obtain the attention of the House as it did in consideration of how far it might be a matter of party trial to persons contending for place, and in consideration of the adventitious circumstance of who might be the person who called to it the attention of the House. He particularly despaired of obtaining the attention of her Majesty's Government, when he recollected, that when a Gentleman placed immeasurably beyond him, of great talents, and enjoying the general esteem of all parties in that House, called upon the noble Lord, the Secretary of State for the Home Department, to combat the arguments which he propounded, he was treated by that noble Lord with all the dignity of official indifference, the noble Lord leaving this impression on the country, that this matter no longer being a subject of party trial, only merely affecting the happiness of Ireland, was no longer worthy of the consideration of the leader of that House; but he would not shrink from his duty, as it particularly devolved upon him, on account of the extraordinary silence of the Irish Members, a silence which, when contrasted with the loud and distinct declarations of the inhabitants of that country, was singularly unaccountable, as he was of opinion that those Gentlemen should either declare to their constituents, that they differed from them in opinion, or manfully avow an acquiescence in those opinions to that House. He, however, could not pursue that course, but he must denounce this bill as pregnant with evil, and declare that the secession of her Majesty's Government from their professions, was calculated to deprive them of the confidence of the people of Ireland. He took the speech of the noble Lord, the representative of the Irish Government in that House, as the analytical apology of the rest of his colleagues. A speech more unsatisfactory to Ireland, or to those who wished that the character of the present Administration should be maintained, he had never heard. He wondered that the noble Lord had not the prudence to remain silent. The gist of the noble Lord's speech was, that he still adhered to his opinions with respect to appropriation, but that he would carry a bill, bereft of that principle. Now, he (Mr. Browne) thought, that when the opinions of a statesman were not made the elements of his political conduct, they were of no value to any one but himself, and that it was not prudent in a Minister of the Crown to declare, that he was about to act contrary to his avowed convictions. The noble Lord had stated, that he passed this bill, because it would tranquillize Ireland. This was the question at issue, and this assertion had become the most perfect "*petitio principii*" he had ever heard: He would ask the noble Lord, from what demonstration of public opinion in Ireland, favourable to that bill, had he come to this conclusion? And as excitement in that, or any other country, must arise out of the popular impulse, it was only by such a demonstration, he could arrive at such a conclusion. He held in his hand a summary of the proceedings of different meetings held in Ireland, comprehending more than a million of human beings, where not a single sentiment favourable to this bill, had been recorded, and where the united voice of the country had exclaimed against this unnatural compromise. He would not trespass on the time of the House by reading the entire of these resolutions; he would slightly advert to one or two, emanating from the most important meetings. On the 1st of July, at a meeting of the counties of Kilkenny, Wexford, Kildare, and Carlow, 150,000 persons present, Mr. T. Boyse, of Bannow, a Protestant gentleman, of the highest respectability, in the chair, it was resolved, that nothing short of a total abolition of tithes, would satisfy the Irish people, and that after the proposed reduction of thirty per cent., they would seek for thirty per cent. more, and afterwards for thirty more; and even should the residue of ten per cent., being a tithe of the tithe, remain, they would still resist its payment by every legal and constitutional means. At a meeting of twenty-two parishes, South Wexford, where upwards of 50,000 persons assembled, similar resolutions were passed, and it was resolved, and he would call the serious attention of the Government to this resolution, "That should the present Session of Parliament terminate, and the petitions of the Irish people, with respect to tithes, remain unheeded, they should consider themselves justified in having recourse to the most stringent measures to relieve themselves from that unjust impost, and to abstain from the use of exciseable commodities, if the Session were allowed to pass without a final arrangement of the question." This resolution reminded him of resolutions which were passed in 1775 in Massachusetts, which were then unheeded by a Ministry, as wise in their generation and as capable of calculating the progress of coming events as the present. Yet America had separated from this country. He would not pursue the allusion. In every part of Ireland, similar meetings had been held, denouncing a compromise, and calling for the total abolition of tithes; yet the noble Lord felt justified in stating, that this bill would tranquillize the country. He widely differed from the noble Lord; he should like to know, where the noble Lord found, at the present time, or at any time antecedent to it, the slightest shade of popular thought extended to this measure. The people never expressed a single sentiment even in favour of the loudly-trumpeted appropriation clause. When that principle was made the corner stone of an Administration then dear to the people of Ireland—when it was made the *sine quâ non* of their political existence—when the hon. member for Dublin was prudently silent with respect to the total abolition; and, above all, when the hostility of the Tories to appropriation, was likely to endear it to the people of Ireland, the people of that country repudiated the paltry compromise, and asserted their national dignity in asserting their national consistency. The principle of total abolition wears upon it the strength of a century; it has been cemented by oppression; it received since 1829, an irresistible vitality from religious tolerance; and were we to be told by the noble Lord, that this impotent measure would eradicate that principle from the minds of the people? The noble Lord said, that thrice they scaled the perilous breach, and thrice they were defeated, and that was a reason they should desist from their undertaking. Was such a principle to guide men in any physical or mental enterprise? Was it with such a spirit, that the barons of England wrested from the tyrant John, the charter of their liberties—was it with such a spirit they obtained their Habeas Corpus, and Bill of Rights? Was it with such a spirit, that many a gallant and hon. Member of that House passed the fatal ditch at Badajos? Was it with such a spirit, the hon. Member for Dublin raised his powerful voice in defence of the liberties of his country, when, in 1799, the walls of the Royal Exchange were lined with an armed soldiery? And was it with such a spirit, the noble Lord, the Secretary of State for the Home Department, propounded his scheme of reform to a listless House of Commons, and did not desist until he accomplished that great measure, which will hand down to posterity the noble name of the house of Russell, associated with credit and honour with the history of the country? He would wish to be instructed by what defined opinion of statesmen was this principle of timidity to be recommended. The noble Lord was reported to have said,

"He could not propose to that House to agree to certain amendments, because a large majority of the other House did not agree to their propositions. He knew full well on another subject, now a matter of history, on the matter of the contest between this country and America, from its beginning those who contended for justice to America, were scarcely at any time more than a fourth part of that House. He had been told by a near relative of his own, that he divided with Lord Chatham when there were only four persons in the House, who so divided in favour of conciliatory measures. It was not, therefore, because there were large majorities in favour of a system, that the House ought to yield to such majorities. He was sure, if the House of Commons should, as it did in the American war, concur in acts of oppression and misrule in respect to Ireland, they would, in the end, be compelled to avow, that their measures had been inefficacious, and endeavour again to repair their error by a tardy, and perhaps ineffectual submission. Let the House, however, reject those measures, and it would be to the people of Ireland what this assembly ought to be."

Such were the sentiments of the noble Lord, the Secretary of State for the Home Department, in 1836, when the Lords' amendments to the Irish Corporation Bill were brought down to that House. He would ask the noble Lord, was he prepared to use similar sentiments, when certain amendments should again be brought down for the consideration of the House of Commons? If he did so, they would contradict the timid declaration of the Secretary for Ireland, and be worthy of that high character for consistency, which distinguished the noble Lord in his advocacy of reform. But he heard it said, that consistency was not, in the opinion of modern statesmen, a quality necessary to a Government; that the great principle which should guide modern Administrations, was that of expediency; and what would the country say was the meaning of the word?—that it was expedient to keep themselves in office. He thought, that men could not lose their political consistency, yielding to no impression from without, without a certain loss of political character. He did not mean to say, that they should adhere to the same opinions, when the country disagreed with them, for as all legislation should reflect the opinions of the community, and as those opinions were subject to change with time, the mind of the Legislature must keep pace with time. But when men seceded from principles, which, at one period, they considered to be the essential quality of their political existence, without any external change, they did that which was dangerous as an example, and calculated to annihilate their political reputation. He should be told, that this was a factious speech, that it was dangerous under any consideration to disturb the executive: he could not assent to that proposition, which preferred executive good to legislative good, or rather, to he should say, executive harmlessness; for the merit of the present Administration lay more in abstinence from doing evil, than in any positive good they had effected. He disagreed with that declaration, for those who controlled the powers of legislation would soon wield the sword of the executive, and this was the case at present. The Whigs administered—and the Tories dictated, the laws. It was an evident proposition that if matters were allowed to continue, an increasing Conservative constituency in England, a decreasing reform one in Ireland, that the hon. Gentlemen opposite, must come into office; and as they would come in through the weakness of the reform party, that the sooner they did so the better, for the more strength the Reformers would have left to resist them. The reason he dissented from the present measure was, that it would either fasten tithes for ever upon the Catholics of Ireland, or create a servile war betwixt landlord and tenant. The latter was the more likely consequence to ensue, and he was told, that that should be an inducement to accept the bill—that landlord and tenant, suffering a mutual inconvenience, would unite for their total abolition. Now, as this could only be procured by a resistance to rent, and the collisions consequent, he must say, that it was a most unholy means of arriving at an end. As to its fastening tithes upon the people of Ireland, if this social irruption did not take place, it was equally as true. It might be said, that after the expiration of present leases, the tenants would be relieved from the payment of tithes, but what quantity of blood might be shed in the mean time! You would not, then, have men subdued by the feelings of religion, who had other sources to look to in the religious zeal of the community, seeking the tenth of the produce of the soil, but you would have those in whom the whole right of the soil existed, with a spirit inflamed by evil passions, exasperated by a denial of the whole of those rights. And even if the leases were to expire to-morrow, this bill must necessarily fasten the tithe upon the Catholic soil of Ireland, for no Catholic hereafter who by industry might have acquired the means to purchase property, could purchase it in Ireland, without having attached to it this degrading impost. He was told that 25 per cent. was a boon and ought to be an inducement to accept this measure. That might be the case if it were a pecuniary inconvenience which the people of Ireland suffered in the payment of tithes: but it was not so; if it was, the inconvenience of paying rent would be felt greater in the same proportion as the rent exceeded tithe. This was proved by the fact of nearly all the tithe sufferers having paid their rent. It might be said, that the peculiar method of collection procured that inconvenience, but that he denied; for take an acre of land paying 20*s.* rent, and 2*s.* tithe, you would say that the inconvenience arose from the peculiar mode of collecting the 2*s.* tithe. It did not so arise; it was voluntarily submitted to, when we considered that the 20*s.* had been paid, for if the tithe defaulter had commenced with the 2*s.* the inconvenience could not exist. He would state one instance which could be multiplied by a thousand, and which would distinctly prove that it was not a pecuniary inconvenience the people of Ireland suffered. In Longford, there was a bill filed by the rev. Mr. Digby for tithes due of the annual amount of twopence halfpenny. The tithe defaulter resisted, and afterwards compromised his costs for 50*l.* Take this proposition: — Suppose two parties of equal means, one liable to a larger, the other to a smaller amount of tithes, both resisting under the old law. Suppose the new law placed the man liable to the larger amount on a level with the man liable to the smaller amount under the old law; the man liable to the smaller amount having resisted before, why not suppose the man reduced to his level to resist under the present bill, or supposing the deduction to be the relief required, why did the man liable to the smaller amount resist under the old law? As long, therefore, as a fraction of it remained, encumbering the soil of Ireland, the same resistance would exist; for it was a political repugnance, which existed in the minds of the people to contribute to a Church from which they derived no spiritual benefit, and which was hostile to their country. He wished that tithes should be subject to a revaluation, and disposed of to the first estate of inheritance; that out of the fund created existing interests should be provided for, and in future, that the voluntary system should be introduced. He advocated this conscientiously, as he could not recognize any human or divine right to tithes. The Church had no right which the history of Protestantism did not prove, that the constitution could disturb. He invited any man entertaining a contrary opinion, to tarry in any town in England, and to enter any cathedral, and he would have, wherever he fixed his eye, a grim evidence of the mutability of the possessions of the Church. Let him enter into that Gothic temple, where a late pageant reminded him so strongly of Catholicism; where ceremonies were borrowed from the Vatican, to place the crown of England on the defendress of the faith; let him enter it, and when he heard the service of a new religion chanted in a new tongue, let him reflect that there once the *Te Deum* rose to heaven, and that there once chanting the sacred liturgy of the dead, according to the ritual of the Church of Rome, the sacred choir followed the dust of England's proudest monarchs to their last repositories; let him reflect, and he would find in all around him an incontestable evidence of the mutability of the possessions of the Church, and the power of the constitution to devote them to what purposes they pleased. The hon. Member concluded by submitting his amendment to the House.

Mr. *Hume* seconded the amendment. He maintained still, as he had always done, that no attempts to settle the tithe question in Ireland could be successful which did not include the principle of the appropriation of its surplus revenues. Divested of this principle the present bill must prove a mere delusion.

Viscount *Ebrington* had ever considered that the existence of a Church Establishment in Ireland so disproportionate to the wants of the community was a stain and a disgrace on the institutions of the country; and he should have found great difficulty in bringing himself to support the measure if he thought that it would tend to prevent that reduction of the Church Establishment which at no very distant period he hoped to see accomplished. With respect to the principle of appropriation, if in the present state of things he saw any prospect of carrying that principle into operation—no consideration should induce him to acquiesce in a bill which did not include it. But if the struggle against tithes were still to go on, notwithstanding this bill, the burden would be on the shoulders of those who were much better able to bear it, and who, he hoped, would carry on the war with effect. He should support this measure, therefore, not as the best which he could wish to be carried into effect, but as the best which the present state of parties held out a hope of obtaining.

Mr. *Ward* said, that parties were of no value in the State unless they persisted in carrying out the great principles by which they had been united; and he regretted to see the noble Lord, who deservedly stood so high in the country, giving his sanction to such a measure as the present, and which he, for one, could never consent to. He agreed with the noble Lord, the Secretary of War, that palliatives could never avail; and though he had supported the appropriation principle, from a belief that it was calculated to conciliate the support of all parties in this country, one advantage was to be gained from its present abandonment—

that it drove them to look at the root of the evil, and convinced all candid men that they never could expect to settle the question of the Irish Church without reducing its revenues to the wants of its members. As he had so often troubled the House with his sentiments, he merely rose to enter his valedictory protest against the bill.

Sir *W. Somerville* said, that the objections of the Roman Catholics to tithes did not so much rest on the amount of the sum which was levied from them in the shape of a tax, as on their conscientious abhorrence of contributing to the support of a Church from which they dissented. He asked whether this bill would not be the means of appropriating twenty-five per cent. of the Church revenue in the very worst manner in which it could be appropriated, namely, by putting it into the pockets of the landlords? Why not apply this surplus of twenty-five per cent. which the bill proved they had at their disposal to the object of satisfying the wants of the people under the Poor-law Bill? There never was a more unjust anomaly than that which the present state of the Irish Church presented. He knew an excellent man—a clergyman in his own neighbourhood—who had to serve his own tithe processes on his Catholic parishioners, who amounted to thousands, whilst the Protestants numbered only six. He firmly believes, that this measure, even as a palliative, would fail; and he frankly avowed that, believing as he did that there never would be peace, tranquillity, or happiness, in Ireland until the Church was placed on its proper footing, he should assist his fellow-countrymen by every means in his power in their efforts to get rid of this monstrous burden. Why should he struggle for the Irish Church as it at present stood, when he knew that, looking at it in a political point of view, it had endangered the union between the two countries, and in its social effects it had disorganised the whole frame of society. Then, as to its religious character, he firmly believed, as a Protestant, that if the Legislature had contrived a plan to prevent the spread of Protestantism, they could not have hit upon any instrument more effectual for their purpose than this Established Church, which had not at the present time, and never had, a parallel in the civilised world. Unless this question was settled in the manner which common sense pointed out, all efforts to direct the industry and energy of the Irish people into the channels of trade, manufactures, and commerce, would prove ineffectual. But if the Legislature were once to settle the question on rational grounds, he did not think, that five years, or half five years, would elapse before hon. Gentlemen opposite would be surprised at their blindness in so long resisting the extension of those rights and privileges which, to be useful, must tend to cement all classes, and which must always be dangerous when confined to a small class of the country. Notwithstanding his opinions of the imperfection of the bill, he would support it for the sake of peace.

Mr. *Grote* did not feel justified in giving his vote without stating, in a very few words, the reasons which induced him to give his support to the amendment. He knew it was quite impossible to say anything new on the question of Irish tithes; and if there was any novelty in the present debate, it was owing to the discrepancy which was to be traced between the premises and the conclusions of the hon. Gentlemen who had spoken in support of this bill. He was quite sure it was impossible to make a more convincing or effective speech than that delivered by the hon. Baronet who had just sat down, and by what means he brought himself to support a measure from which he stated his conviction it was impossible to derive any good, was more than he could imagine. The noble Lord, the Member for North Devonshire, too, prophesied the entire failure of this measure. It would, he said, be the means of transferring the payment of tithes from the weaker class to the more powerful, and he anticipated from the change only increased odium to the existing constitution of the Irish Church. Now, he disapproved of the Irish Church as much as any man could do; he had been as unreserved as any man could be in the expression of his abhorrence of the monstrous principle, and the equally monstrous effects of that establishment, yet he must say, that if he believed, that the indirect effect of a bill, and not intended by those who proposed it, was to produce increased hostility to the Establishment, he should not, for that reason, be willing to give it his support, if to the principles contained in it he had a conscientious objection. Very possibly this bill might strengthen, in the minds of the Irish and of the English people, the objections now so strongly and so justly entertained to the Irish Church; but that would supply no reason to his mind for assenting to a bill which contained principles that he could not sanction. The hon. Member for Kilkenny, who seconded the amendment, e cluded from his objections to the bill the grant of money which was proposed. On that point he could not agree with his hon. Friend; for, looking at the grant of money as an integral part of the bill, he must say, that, amongst his other objections, that occupied a most conspicuous place. He held the grant objectionable on the score of principle, both with reference to the state of the Treasury, and as to its mischievous effects on the minds of the Irish population. It was in vain, that he and other Members entered their protest the other night, in the hope of excluding from the bill this most mischievous provision. But since their efforts had been unavailing, and the grant remained in the bill, he felt compelled to say, that if he had no other reasons against it, that would form a conclusive reason against his voting for the measure in its present shape. He did not mean to say, that if a plan for the settlement of the Irish Church question were proposed, founded on just principles, and which he believed would prove final and satisfactory, that he should object to a certain payment from the English Treasury, asked with such a view. And he was quite certain, that however strict the views of economy of any Gentleman on his side of the House might be, he would not object to a grant which would clearly have the effect of closing a wound which had been so long left bleeding. But it was to him a strange and painful phenomenon, that every Gentleman who spoke in favour of this bill confessed it would not effect the object for which his support was given. Even its advocates predicted no good consequences from it. It was as much as they—it was as much as any man could say, that it would be the means of postponing the litigation and disputes which now prevailed, the sources of the differences being still left open, with an acknowledged expectation of the same contests being renewed in a very short time. He could not conceive how the noble Lord, the Secretary at War, who had made a speech the other night which he recollected with the greatest satisfaction, and in which he admitted, that the difficulties of the Irish Church were only adjourned, without any one of them being settled by this bill, could give his consent to so dear a purchase by the people of England of a mere hollow truce. He refrained from making any allusion to the principle of appropriation, and although he must confess, that the altered tone perceptible on that side of the House with regard to that question did indeed afford a melancholy proof of the way in which great principles were made subservient to party purposes, and although he thought history would record this as one of the most discreditable instances of tergiversation, yet he thought it useless at the present time to attempt to impart interest to a subject which had been consigned by both sides to oblivion. But seeing, that this bill would impose a large charge on the people of England; seeing, that it did not settle any of the disputes or difficulties of the Irish tithe question; and seeing, that it left the main anomaly not only without correction, but without mitigation, he should give his decided opposition to this measure, and register his vote for the amendment.

Mr. *M. J. O'Connell:* Although he agreed in most of the sentiments of the hon. Member for Sheffield, yet, as an Irish representative, and a well-wisher to Ireland, he felt justified in voting for the third reading of this bill; and he did so on this simple principle, that whilst he believed it would effect great temporary good, no future mischief could possibly result from it. He owned he was surprised at the charge of inconsistency launched, not only against her Majesty's Ministers, but against a large body of their supporters, on the ground of their having abandoned the appropriation principle. And he must complain, that his hon. Friend, the Member for Kilkenny, had not quoted correctly the resolution of 1835. His hon. Friend read the words as if they ran, "no settlement can take place;" whereas they really were, that "no final and satisfactory settlement could be arrived at, which did not involve the principle of appropriation. Now, did any Member of her Majesty's Government, did any Member at this side of the House, or did the right hon. Baronet opposite (Sir R. Peel) pretend, that the present proposal was meant as a "final and satisfactory" adjustment of this most important question? When he heard that question answered in the affirmative, he should admit, that the charges of inconsistency so freely dealt out against those who, though they supported the appropriation clause, felt bound not to negative the present bill, were well founded. His hon. Friend the Member for Mayo (Mr. D. Browne) knowing, he supposed, that a distinguished foreigner (Marshal Soult) was that night in their gallery, seemed fired by his presence with unwonted ardour, and insisted that, whilst they had the principle of appropriation to fight for, they should never desist, however repulsed from the breach, or however diminished in numbers, until they perished in the attempt. It struck him at the time his noble Friend was delivering this strong appeal, that the quotation might not unnaturally have occurred to him,

> "Of the three hundred grant but three
> To make a new Thermopylæ."

He did not see, that there was anything unmanly in not struggling for a principle which was at present unattainable, nor did he consider it inconsistent with honesty and public spirit to take a measure as good as he could get, because it was not as comprehensive as he could wish. There was no use in concealing the fact, that such was the excitement generated by resisting the rational demands of the people, that the appropriation principle, which would have given satisfaction in 1835, would be treated with scorn in 1838. The sentiments expressed at those meetings to which his hon. Friend referred, were equally condemnatory of this bill and of the measure which his hon. Friend blamed the Government for having abandoned. Though he did not think the people of England were totally free from blame in the apathy, or he should, perhaps, rather say, in the religious prejudice, which their conduct exhibited on this question, the affirmation of the principle of appropriation was now rendered useless, so far as the demands of the Irish people were concerned. He knew what pains had been taken to disseminate unworthy prejudices in the minds of the English people. Like *Scrub* in the play, when those who pandered to narrow-minded bigotry, and uttered the cry of "murder" and "thieves," had failed, they raised that of "popery." There was no doubt, that that cry had been raised throughout every part of the country, and the opposite benches testified how well it had succeeded. But as he was convinced, that the people of England were a rational and thinking people, he had no fear, that they would remain permanently wedded to error, but common sense and justice must soon resume that sway which it seemed they now unfortunately did not hold over their minds. There were two things which tended especially to point out the enormous injustice of the Irish Established Church; one was, that its revenues were on a scale befitting the church of a nation, and the other, that it was devoted to the service of a minority. And of what minority? Of the ignorant of the destitute, and of the hard-working classes, who had not the means of supplying themselves with religious instruction? No, but of those who incessantly and almost insultingly boasted, that they were, to a great extent, the aristocracy of the country, that they constituted a majority amongst the squirearchy, that in the magistracy they greatly preponderated, that in the learned professions they had more than their share, and that amongst the merchants, traders, and more comfortable artisans, they were also to be found in considerable numbers. This, then, was the minority as described by themselves for whose exclusive benefit a church of extravagant revenues was supported. He did believe, that when the people of England came calmly to reflect on this anomaly, and to consider in what circumstances the other religions in Ireland were placed, this state of things could not long endure. He was delighted to hear the manly expression of sentiment on the religious consequences of the present state of the Irish from the hon. Baronet (Sir R. Somerville). He fully participated in the hon. Baronet's belief as a Protestant, that no system could be devised which would more effectually check the progress of the Protestant religion. It had been said by the hon. and learned Sergeant, the Member for Bandon, that the demands of the clergy fell short of their rights. About a century ago the question of tithe agistment was raised in the Irish Parliament, and he had extracted from the journals a few passages, which showed how the result, of which the hon. and learned Sergeant complained, was brought about. The first was as follows:—

"December 6, 1735. Petition complaining of the new demand for agistment tithes referred to a Committee, who on the 22d December reported 'that the allegations were proved.

"March 5, 1735 (O. S.). Petition of Samuel Low and others, also referred to a committee, and, on the 18th March, report made, 'that the petitioners have fully proved the allegations of their petition to the satisfaction of the Committee, and deserve the strongest assistance the House can give them."

These and two other resolutions were agreed to, and the following resolution—

"That the commencing suits upon these new demands must impair the Protestant interest, by driving many useful hands out of this kingdom; must disable those that remain to support his Majesty's establishment, and occasion popery and infidelity to gain ground, by the contest that must necessarily arise between the clergy and laity"—

was carried on a division, 110 voting for it, and only 50 against it. And this resolution was carried by a House of Commons, which gave decisive proof of its Protestantism by resolving, on the 16th December, 1735, *nemine contradicente*,

"That an humble address be presented to his Majesty, setting forth, that the reversal of the outlawries of persons attainted for treason in the rebellions of 1641 and 1688, or the enabling any of them, or their descendants, to sue those Protestants who have purchased estates forfeited by those rebels under several Acts of Parliament, will be dangerous to his Majesty's person and Government, and the succession in his royal house, and highly prejudicial to the Protestant interest of this kingdom."

As the land, however, ceased to be used for grazing, and agriculture advanced, the resistance to tithes increased, and the incomes of the clergy became proportionably diminished. Even in the provinces in which Protestantism prevailed most, there were so many cases of pluralists, sinecurists, overpaid rectors, and underpaid curates, that he could not abstain from mentioning a few to the House. The hon. Gentleman read the following list:—

"The Rev. Charles Le Poer Trench, rector, Dunleer Union, diocese Armagh, 531*l*. 17*s*. 1½*d*. Population of Union, Protestants of Established Church, 289; Roman Catholics, 4,925; Protestant dissenters, 1. Also rector of Athenry, diocese Tuam, 902*l*. 15*s*. 0½*d*.; Established Church, 170; Roman Catholics, 7,454. Has also two prebends, Faldown, worth 92*l*. 3*s*. 4d.; Ballywoulta, 21*l*. 3s. 1*d*. Non-resident in both benefices, being vicar-general of Clonfert, where he lives; has a curate in each benefice, and pays each 69*l*. 4*s*. 7½*d*.

"Rev. Charles Cobbe Beresford, rector of Termon M'Guiske, diocese of Armagh, 1,267*l*. 6*s*. 10½d.; Established Church, 1,722; Roman Catholics, 8,249; Presbyterians, 941; parish contains 41,000 acres. Rectory of Killesher, diocese of Kilmore, 1,211*l*. 3*s*. 10*d*.; Established Church, 2,457; Roman Catholics, 2,641; contains 21,000 acres. Two curates in Termon M'Guiske, 75*l*. each; one in Killesher (where rector does not reside) 83*l*. 1*s*. 6½*d*.

"Rev. William Athill, rector of Findouagh, diocese of Clogher, 828*l*. 6*s*. 11*d*.; Established Church, 3,519; Roman Catholics, 7,084; Presbyterians, 1,400. Also rector of Magheracalmoney, same diocese, 575*l*. 15*s*. 5½*d*.; Established Church, 3,586; Roman Catholics, 3,298. Resides in latter parish, and has one curate at 80*l*.; in Findonagh one curate at 60*l*. a-year, and forty acres of land rent free."

Resistance to tithes, continued the hon. Gentleman, was not confined to the Roman Catholic districts of Ireland, but had extended to the Presbyterian and Protestant North, in proof of which it was only necessary for him to remind the House of the case, which had lately appeared in the newspapers. (The hon. Member quoted a case brought before the Court of Exchequer, Dublin, in which the defendants, in a tithe process, were Presbyterians.)

He felt satisfied, that these facts, when they came to be known, would produce an impression on the minds of the people of England, and enlist their feelings of fair play in favour of the claims of the Irish nation to a reform of these enormous and crying abuses. It might be asked, what remedy could be devised for these evils? The Roman Catholic Members of the House were often taunted for wishing the church to which they belonged to share in the emoluments of the Protestant Church establishment. As a member of the Roman Catholic church himself, he begged distinctly to state, that there was nothing to which he should so strongly object as to see that church placed in the invidious position of deriving its support from a State provision. He wished it to be understood, that the Roman Catholics of Ireland repudiated any connexion whatever between their church and the State. Then came the question of whether there ought to be any appropriation of the funds of the Protestant Established Church other than that which was now made. For his own part, he was decidedly in favour of what was called the voluntary principle;

but, at the same time, he was strongly of opinion, that if a portion of the enormous revenues of the Established Church were applied to the purposes of general education in Ireland, agitation in that country would cease, and religious tranquillity be for the first time established. Unless something of that kind were done, he was satisfied, that the days of the Established Church in Ireland would be numbered.

Sir *R. Peel* said, the question we are now called on to discuss is this—whether we ought to vote for the third reading of this bill, or whether we should consent to the amendment proposed by the hon. Member for Mayo. That amendment proposes to postpone the bill for the period of six months, and this is, in my mind, tantamount to a declaration, that the attempt that has been made for the settlement of the tithe question has altogether failed, and that there is no prospect whatever of our coming to an agreement upon any satisfactory principle upon which the future settlement of the tithe question can be made. This appears to me to be the effect of the amendment proposed to the House, and the proposition which this House would affirm by adopting that amendment. Now, then, Sir, the bill before the House contains two enactments, in both of which I concur. In the first place I fully concur in the future conversion of the tithe into a rent-charge. In the next place I fully confer in the transfer of the pecuniary burthen of tithe from the occupiers, who, in general, are Roman Catholics, to the proprietors and landlords, who, in general, are of the Protestant persuasion. I concur also—and concur most fully—in that enactment of the present bill, which sets at rest—and sets at rest for ever—the whole question of arrears; and so far as the operation of the bill is concerned, I think that setting aside the question of arrears, which might remain as an element of discontent, is, in itself, a very great advantage. Entertaining, then, those opinions with respect to the present bill, I find it impossible to assent to the proposition of the hon. Member for Mayo. Now, let me ask the House, if we consented to take that course, what would be the consequence? Why, this—if we rejected this bill, we should leave the tithe question not only in the state in which it has been for the last five years, but in even a far worse state; for, after the declaration of Parliament, rejecting this bill, you would altogether exclude the prospect of any satisfactory settlement of the question whatever. From the views which have been expressed at the other side of the House in opposition to this bill, I am unable to infer anything definite. One hon. Member gets up and says, that he feels bound to oppose the present bill, because he is anxious to have this question settled upon rational grounds. Another gets up and says, that he will never consent to have this question settled upon any but a just principle. They deliver themselves thus of vague and indefinite generalities, but they will not condescend to tell us what they mean when they talk of having the question set at rest upon rational grounds and upon just principles. Indeed, Sir, I am surprised at the course that has been taken, and the ground on which the opposition to the third reading of this bill has been assumed. I had hoped, considering the length of time during which this question has been agitated, that men who felt bound to oppose it, would have done so upon broad and intelligible grounds. But, instead of this, we are met with some vague generalities—the expression of a wish that the question should be settled upon rational grounds and upon just principles. I ask hon. Gentlemen, what they mean by these assertions? I can easily understand those who express a definite opinion. One hon. Member stated, that he would be satisfied with no settlement short of the application of the voluntary system. Now, I thank that hon. Gentleman for the candid and practical declaration of his opinion. I believe, that in the candid avowal of his, no doubt, sincere opinions, that hon. Gentleman will do more to place the question on intelligible grounds than those who dissent from everything they hear proposed, and ask nothing more definite than the settlement of the question upon just and rational principles. With respect to the principle of appropriation, about which so much has been said this evening, I shall say nothing whatever. I know full well, how easy it might be to raise impediments of pride, which might prevent any settlement of the question at all. I will merely say, that I have always thought, and still think, the adoption of that principle, in any legislative measure, is, in every way, calculated to prevent a practical settlement of this question. In referring to what took place in 1835, the settlement was then resisted, because one of the principles on which it was founded, was the appropriation principle; and I must say, that I am more and more convinced, by every successive debate on this question, of the justice and propriety of the course which I took in resisting the appropriation principle. I ask you, who resist the present bill, and demand the settlement of this question on just principles, to say, whether you now consider the appropriation principle a just principle. The hon. Member for Sheffield had said, that principles ought not to vary with the position of parties, whatever they might do with the lapse of years? You tell me, that the appropriation principle would be rejected by the people of Ireland now as worse than useless, and I ask you to say, would that principle, which you tell me now would be rejected, have been just three years ago? In what did the justice of your principle three years ago consist? One of the grounds on which this bill is objected to is, that the settlement cannot be satisfactory, inasmuch as that the Church of the minority is greatly overpaid, as compared with the Church of the majority. Now, supposing this, how is it possible that, according to the views you express, you could have effected a settlement by deducting a limited sum from the revenues paid for the maintenance of that Church, and appropriating an indefinite surplus, at an indefinite period, on the grounds set forth at the time? Now, how can you assert, after what has since heen stated, that such an arrangement would have given satisfaction? Where was the binding nature of the compact? What would there be still, even after having adopted that principle, to prevent the hon. Members opposite, or any other hon. Member, from attempting to establish the voluntary principle? I showed you, that it was a delusive settlement. By deducting one-fifth, you acknowledged the principle, that you still retained, what were called enormous revenues, for the support of the Church of the minority. Now, was this calculated to strengthen the Church? Would the hon. Member for Kilkenny acquiesce in that course? It was on the ground that I have stated, that I felt bound to resist the appropriation principle. I cannot understand those who say, they are anxious for a settlement of this question, and yet propose to reject this bill. I think some settlement of this question necessary, and, upon that ground, I give my consent to the present bill. I cannot understand public men who say, that they will support this bill, because they hope that it will increase the evils of the Church. I think it would be better for the noble Lord to resist the measure altogether, than support it on the ground that it was calculated to accumulate the evils of the Church. I think, indeed, that it would be better for the noble Lord to resist the bill, if he had made up his mind that the present arrangement was calculated to entail upon the Church more evils than those under which it already suffers. Neither can I understand the course pursued by the hon. Member for Drogheda. That hon. Gentleman says, "You may pass this bill, and I, as a member of the Established Church, will not originate any subsequent agitation; but if my poorer neighbours shall think fit to renew agitation, they shall have my co-operation." I can understand his scruples as a member of the Established Church against the commencement of agitation, but I cannot understand his feelings when he says, that if persons, influenced by motives in which he has no participation, shall commence agitation, he will not only not lend his assistance in quelling that agitation, but that it shall have his co-operation. When the hon. Gentleman says, that his whole object in supporting this bill is to put down agitation, I confess I cannot understand the meaning of this public notice, that if the peasantry shall think fit to recommence agitation, they may know where to find a colleague. Sir, this bill, which we are now called on to read for the third time, includes three enactments—first, that Irish tithes shall be converted into a rent-charge, this enactment to be applied universally, wherever the case may require it; secondly, the arrears of the million are to be remitted; and, thirdly, it deals with the existing arrears, which are not covered by the million, and provides that a grant shall be made by Parliament of 300,000*l.*, by which grant that class of arrears shall be altogether extinguished. Concurring, as I do, so much in some parts of this bill, and deeply anxious as I am to see this Session close with some successful attempt at the adjustment of tithes on just principles—the principles of relieving the occupying tenant, and transferring the charge to the landlords of Ireland—no opposition I could give to a single clause would induce me to withhold my assent to the third reading. I think, as I said before, it would amount to a Parliamentary declaration that, after five years of anxious consideration, the adjustment of Irish tithes was found to be impracticable; and that attempts for the recovery of tithes must be immediately renewed, as all hope of assistance from Parliament was hopeless. In my opinion, also, the evil would be greatly aggravated by the late approximation of opposing parties, and the failure of their united efforts. For these reasons, nothing but the strongest objections to parts of the Bill at this late period, would induce me to abandon the hope of seeing it become law. But the bill before the House being very much in conformity with that which I supported on a former occasion, and as I feel that the settlement of the tithe question has not been at all affected by anything that has occurred, since I am naturally disposed to view with favour the adjustment of the tithe question in the present case. For these reasons, I shall support the third reading, and most earnestly resist the motion of the hon. Gentleman opposite. There is one enactment of the bill, however, to which I do not assent. The enactment to which I refer is that which provides, that on the grant of 300,000*l.* being made, all claims for arrears of tithes on the occupying tenants shall cease. Since this bill was first introduced important modifications have been made, the first and most important of which, in my opinion, is, that whilst all claim on the instalments have been relinquished, and the occupying tenantry relieved from all obligation to pay the arrears, I think that the provision was founded in justice, and I cordially rejoice to see it incorporated in the bill. Another modification has been introduced into the enactment, which relates to the existing arrears. At first, the compensation granted was only intended to be in lieu of the arrears which have occurred within the last two years. I decidedly objected to that proposition, as I thought it most unjust that Parliament should interfere to prevent those to whom the arrears were due for the first four years receiving any compensation; and I believe the bill has been altered so as not to exclude that class of claimants from compensation. I do not say, that they are to receive an equal compensation to those of the last two years, but a proportionate one for the arrears they are called on to abandon. By this means, the rights of no parties, whose claims are to be extinguished by the Legislature, will be called on to abandon those rights without at least some compensation. The state of the law will then be this—that all those who have commenced suits for the recovery of tithes before the 16th of July last, will have the option of continuing their law proceedings. With them, there shall be no interference; but, if they think fit to do so without payment of costs, they shall be entitled to their share of the compensation intended by the bill. I apprehend that is the right construction. The violence thus done, when it is done, is in that class of arrear not covered by previous advances out of the million, and in which the parties have not instituted suits for recovery. Now, I am bound to state and to maintain my opinion with respect to this. After my best consideration, I think that my proposal was the best in every respect. I think the proposal that gave an option to parties to accept the offer made by Government, or to enforce the law in cases where they thought fit, I think that proposal protected a great principle, and was every way better than the course which has been adopted. Sir, I admit, that there is considerable force in the argument of the noble Lord, in which he maintains that on the whole the option would not be very desirable. If the offer should be accepted by seven clergymen in each diocese, and the arrear insisted on by one, I am perfectly ready to admit, that his option would not be perfectly unrestricted, but at the same time we must recollect that in this case, although there might be moral obligation, there would be no legal compulsion. The principle would be maintained, so that in cases when the circumstances of the occupying tenant were as good as those of the landlord, in cases, for instance, when his rent amounted to 500*l.* or 1,000*l.* a-year, and where such tenant should prove contumacious the arrears might be recovered, I see no reason why Government, in such cases as these, should not reserve to itself the power of vindicating the authority of the law. By this means the other alternative, that of making past resistance effective, would be avoided. At the same time, having taken the sense of the House fairly on the subject, I have done all I could to enforce my proposal by repeated argument; but I have been overruled by hon. Gentlemen opposite; nor have I the slightest reason to believe that, if I were again to propose it, I should meet with any better success. Supposing the optional principle, then, defeated, I certainly wish that Government, in adherence to their own principle, would adopt a course like this, that if they are determined to apply compulsion, and to deprive parties of their legal remedy, at the same time granting compensation, they should ascertain the full amount of arrears really due. Even suppose it is their intention to give but seventy-five per cent. on the amount of the arrears, or any other per centage, still it is necessary to ascertain the exact amount. I am perfectly willing to admit, that at this advanced period of the session there are many obstacles in the way of ascertaining the exact amount, and I deeply regret that we did not take the matter into consideration at an earlier period, as the arrangement would have been more satisfactory to all, if we had been enabled to know the amount of property with which we had to deal. I am bound to say there is great difficulty in coming to a satisfactory conclusion, and the hon. Gentleman opposite will recollect that when I resisted the exclusion of the clause as proposed by him I did so for the express purpose of closely considering the pecuniary claims of a party, which, in my opinion, was suffering grievous wrong, and which I was anxious to protect from any further injury. I have taken the best means within my reach to come to a right decision on this subject. I have had, unfortunately, to consider the question unassisted by the natural representatives of the Irish Church, and I can only say, that I have come to the best decision within the scope of my judgment for the individual interests of the Irish clergy, and the permanent interests of the Irish Church; and I now declare, in perfect unanimity with the opinions of those most interested, that from the many conflicting judgments and the extreme difficulty of the whole question, I cannot take upon myself the responsibility of rejecting altogether the proposal of the Government. That proposal is, that all advances hitherto made from the million shall be remitted, and that a further sum of 300,000*l.* shall be granted for the purpose of giving some compensation in lieu of existing claims. Suppose I rejected the offer now made, I cannot foresee the course Government might take with respect to the remission of the instalments already paid. They might say, if the arrears are to be enforced, why not the instalments? I believe it might be competent to us, by uniting with such hon. Gentlemen opposite as entertain principles very different from mine, who object, on principle, to any grant on this question—I dare say that, by uniting with them, I might possibly have excluded the clause, and by deciding it should have determined that under no circumstances whatever should the assistance of the Treasury be offered for the settlement of tithe. I think that such exclusion would be tantamount to a declaration that Parliament positively refused all interposition. If, therefore, I had voted with the hon. Gentleman, as I might have done, I should formally and irrevocably have decided the question. [Mr. *Hume:* Not if you accede to the reform of the Church.] If the hon. Member mean by reform of the Church the abolition of sinecures where such exist; if he mean the abolition of pluralities on the system pursued in England; if by reform of the Church the hon. Member mean an equalization of incomes, all I can say is, that to all that I shall most willingly agree, in as far as it will not interfere with the integrity of what still remains of the property of the Church. More than that I will not consent to. But I will not consent to the alienation of Church property. I will not consent to any violation of the principle of an establishment—but this I will do, that if you prove to me that in Ireland there are districts where the working minister is badly paid, and that there are other districts in which he has too much, I will consent to equalization, and I shall do so with no other view than to effect what will best conduce to the spiritual and temporal interests of the Church. I will consent to what I call true reform, that is, such appropriation of the Church's revenues as shall make sure that in every district the wants of the Protestant population shall be adequately provided for. As I said before, if I excluded this clause I should for ever shut out the prospect of compensation, but by consenting to it I do not finally determine on its merits, but refer it to another branch of the Legislature, well competent to decide on questions in which the Irish Church is concerned, and where that Church is fairly represented. That branch will decide this great question, whether the emergency is so urgent, or the circumstances so special, as, on the whole, to justify the violation of the principle of property. I will not shrink from frankly declaring my own opinion. I think, from what we know of the position of the Irish clergy, that, if this clause were now excluded, their situation would be extremely painful. I cannot exclude from my consideration the whole circumstances—I cannot exclude from it the position of the clergy with respect to Government—and I must say, that the opinions we have heard expressed by Members of the Government increase the difficulty. My own opinion is, that active interference on the part of Government, backed by a determination to enforce the law, would be completely effectual. But, at the same time, I cannot omit from my consideration that if Government does not entertain this opinion, and that some members of it profess an opposite principle, it will be exceedingly difficult to enforce the rights of the Church. Independently of this, I must consider the individual wants of the Irish clergy, and the permanent interests of the Church. If I reject this offer, I leave the clergy in this position—I shall have converted composition into rent-charge, and thus have implied on the part of the Legislature, that the present system is defective, and thus be throwing another obstacle in the way of recovery of arrears. I should be telling the clergy that all hope from the public funds was futile, and that, therefore, they had no other resource for the recovery of their arrears, but an immediate enforcement of the law. In cases where arrears have lain over for four years—observe, not in the cases where suits have been instituted—if I object now to any offer for the settlement of the question, I cannot conceal from myself, that in the South of Ireland, any attempt to enforce the tithe would be attended with extreme difficulty. So much for the individual interests of the clergy. For the general interests of the Church, I should say, that the new system admits conversion into rent charge, under circumstances most likely to prejudice those interests. In the north of Ireland the landlords have already undertaken the collection of tithes, so that it is in the south the new law will principally operate. In the south the arrears are due. I should then have contemporaneously a conversion of composition into rent-charge, and a general appeal to the law. Under such circumstances I fear, that the prospect of a permanent settlement would be greatly diminished if I were to compel the clergy to resort to law. As I said before, I object to this provision. I wish it were more liberal—that it were possible for the noble Lord opposite to give a somewhat larger equivalent. I retain all my objection to the principles involved in this clause, namely the abandonment of legal right, and a refusal to enforce the law; but after conferring with those best qualified to judge, and having had no opportunity of conferring immediately with those interested, finding no one willing to take upon himself the responsibility of rejection, I am placed in the painful situation of being obliged to select amongst the numerous existing difficulties the one least pregnant with danger to the interests I am desirous to protect. I cannot, therefore, consent to the total exclusion of the clause from the bill—I cannot altogether abandon the hope of a pecuniary provision. I therefore consent to the clause, thinking that the principle is not finally determined by its adoption on the present occasion. I think I shall merely be giving time for further communication with Ireland, and enabling the other branch of the Legislature to determine what, on the whole, under existing circumstances, is best to be done with this question. Whether it would be better to leave the law as it stands, to give the parties their legal remedy but no compensation, or to accept for the Irish Church the Government proposal. I therefore will not oppose this clause. It would, perhaps, be more satisfactory for me to refrain from passing an opinion, but I never will take the plan of absenting myself from the House, and I therefore do not hesitate to say, that if the hon. Gentleman press his amendment I shall vote against it and in favour of the clause.

Mr. *Harvey* said, that the right hon. Baronet had made two sweeping charges against those who opposed the bill, which it appeared to him incumbent on those who thought of it as he did to notice. It was a favourite remark, not only of the right hon. Baronet but also of the noble Lord the Member for Stroud (Lord J. Russell), that it was very easy for hon. Members to deal in general and sweeping terms with any measure, that might be propounded by Government, yet that such persons were not to be regarded, nor their opinions heeded, either because they were ignorant of what constituted official responsibility, or were entirely ignorant of the country for whose interest it was proposed to legislate. If the latter reason were a sound one, then Irish Members would take no interest in English affairs, and English Members ought to retire when they were about to discuss Irish questions. [Sir *R. Peel:* I said nothing to that effect.] He had heard the remark in the course of the debate, and it was made in reference to himself; and he could only say, that it was unfortunate, that this discovery had not been made earlier in the Session, as it would have spared much time and much conflicting statement. But he would now refer to the two points thrown out by the right hon. Baronet. First the right hon. Baronet said, that those who opposed this bill were against any settlement of the question whatever; that they suggested no plan by which this important, because agitated question, could be set at rest. In reply to this, he would say, that it was enough for them to deal with the subject as it was presented to them; and that they were enough occupied in exposing the fallacies by which any object or principle brought forward was attempted to be supported. But he should like to know whether the right hon. Baronet consented to this bill, at the price of a million of money, because he thought it was a settlement of the tithe question? If he did so, the country would marvel much that the right hon. Baronet, who had taken such a prominent part in the government of the country, had never, with his facility of invention, stumbled upon the mercantile and mercenary project of settling this all-important subject by the bribe of a million of money. It was a very easy mode of legislation. But, said the right hon. Baronet, "nothing will satisfy those who oppose this bill but a recurrence to the voluntary principle." Now, he (Mr. Harvey) had never heard that assertion made in any quarter. It was true some of those who opposed the bill had expressed their attachment to the voluntary principle, believing, that it was best calculated to promote the object of christian truth; but he had never heard it propounded in that House, either with reference to the Irish or English Church. The right hon. Baronet had said, "Show me any abuse in the Irish Church, and I will willingly support a measure to remedy it, and use my best endeavours to point out a means for its correction." But had the right hon. Baronet done so? [Sir *R. Peel:* Yes!] It was very true he had partially done so, but why did he not persevere? Why did not the right hon. Baronet now stand up and say, "I am prepared to give a million to settle this question, but I will not give any thing except in connection with that large christian scheme of amelioration which I think peculiarly called for by the present state of the Irish Church." But no—all that the right hon. Baronet was prepared to bring forward at a future period, and what he was now prepared to do was, to take the money—the only thing which distressed his mind being that the money did not go far enough. He believed, that every gentleman who with him were now opposing the third reading of this bill, would readily abandon the million of money as a moderate price to be paid for securing the great principle of appropriation. But they were not taking away merely a million, but were actually taking from the public resources three millions more. This bill proposed to forego four millions of public property. It proposed to give to the landlords of Ireland twenty-five per cent. of the tithe. That property either belonged to the Church or to the public. He contended, that it was public property. Twenty-five per cent. on 600,000*l.* yearly was 150,000*l.* yearly, which at twenty years' purchase produced three millions sterling. That money was to be put into the pockets of the Irish landlords; and yet the right hon. Baronet took credit to himself, as a champion of the Church and its interests, as being opposed to all appropriation. But this was appropriation. The noble Lord the Secretary at War, in a speech which it was impossible to praise too much, had intimated that it was not unlikely, that some endowment would hereafter be proposed for the clergy of the Catholic Church. Now, he had long thought, that the time might not be very distant when some experiment of this sort might be made; and, though some Gentlemen in that House who belonged to the Catholic Church might protest against such an experiment, yet he was not prepared to consider the Catholic priesthood so much purer than all other priesthoods as to infer, that they would resist the temptation, however coy they might be in some of their advances to it, if it should be decidedly pressed upon them. But where would the Government find the funds? Would the landlords come forward and give up the twenty-five per cent. which was now proposed to be remitted to them? Supposing they should not, where would the money come from? They could not expect it from the Protestant clergy. No! it would come from neither quarter; but, for the sake of the peace of Ireland, and for putting down agitation, it would be suggested, that, as they had provided Catholic priests for Catholic criminals in gaols, so they ought to provide Catholic priests for Catholic christians elsewhere. As he had said, the other night, the subject was so large, it so opened all Ireland for discussion, that it was impossible for any individual, however much he might concentrate his views, within a fair period of time, to state all his objections to the provisions or the principle of this bill. He, however, had no hesitation in giving his objection to it on various grounds, but chiefly because it was thought that they could purchase the peace of Ireland by any payment of money. It would be harsh to suppose, that they could deal with that country in this vulgar manner. The people there were struggling, not against tithes, because of the money payment, which was trifling to all, but on account of the injustice of the establishment of a Church in the midst of a people, millions of whose numbers adhered to the faith of their fathers, and were adverse to its discipline and principles. He did not, therefore, fancy that this bill could, or ought to be satisfactory to the people of Ireland; they could scarcely expect that the detestation of that people could be thus controlled, and, that their claims would be quenched by the grant to defray claims, in themselves trivial. He was sure that he spoke within bounds when he said, that the tithes in England were five shillings per acre, and he also spoke within bounds, when he asserted, that in Ireland the tithes were under fifteen-pence an acre; in many places they were considerably less than one shilling, whilst in England, in many places, they were more than eight shillings. He denied, however, that the Catholics had greater reason to complain of the Established Protestant Church, than had the Dissenters in England. He was not surprised that the Catholics should be opposed to the smallest payment to a Church, from the doctrine and discipline of which they dissented; but it was part of their discipline to support an establishment, and, if they could effect their wishes, an exclusive establishment. So the Scotch Presbytetians of a certain class had no right to complain, for they also advocated an establishment, and only dissented from this, because it was not their own. It was not so, however, with the Protestant Dissenters, they were against every establishment, whether of one class or the other; to a state Church of any sort they were alike opposed, and yet, it was with this class, composed of as many millions as the Catholics of Ireland, that they dealt most lightly. He thought that the nonconformists, the great depositories of steady morality in this country, and who were opposed to an establishment, ought to be considered relative to the imposition of burdens on account of the Irish Church, whilst they were denied the same advantage as they were conceding to the Catholics. These considerations all crowded upon his mind, and led him to think that they were not reflecting in their course as sound statesmen ought to do; but that to get rid of a transient difficulty, they were making a grant of English money, whilst they were laying a foundation, and establishing a principle, the extent of which they could not at present fathom. Heretofore the Conservatives had always held themselves out as the enemies of all misapplication, as they termed it, of the revenues of the Church to any but the one purpose of affording religious education to the people; they yet denounced the appropriation clause, which only gave the chance of procuring some 50,000*l*., some fifty years hence, and still they were eager to support a bill which appropriated money to themselves, for he did not forget that he was addressing Irish landlords, and English landlords also, who would not disapprove of the application of the same principle. They would take twenty-five per cent. for themselves, and yet they talked of a grant of one million of money to tranquillise Ireland.

Lord *Stanley* said, that the charge which his right hon. Friend beside him had made against the hon. and learned Gentleman and those with whom he acted was, that it was easy for them to state their objections to what they considered not to be a satisfactory adjustment of great political differences, and to raise abstract theories to oppose a question of great moment; and his right hon. Friend had said, it was easier for the hon. Gentleman to take this part than, like those in official situations, to bear responsibility, or, as the results of their conduct, to contemplate the benefit of the public. His right hon. Friend did not charge the hon. Gentleman with having spoken on questions with which he was not locally connected, or on which he had not obtained accurate means of information; but he confessed that if his right hon. Friend had made the last charge against the hon. Gentleman, the speech of that hon. Gentleman would have given a fair vindication for the charge. For he could attribute only to ignorance the hon. Gentleman's great and impartial misrepresentations of the conduct of both parties in the House on almost every part of the great questions before them. Whether he considered the hon. Gentleman's assertion, that the amount of tithes in England was five shillings per acre, or that the arrears of tithes in Ireland for two years, amounted to 2,400,000*l.*, he knew not which displayed the more ignorance or the more reckless assertion, without inquiry. The hon. Gentleman said, that the arrears were 2,400,000*l.* [*No, no!* from Mr. *Harvey*]. Why that was the whole basis of his argument, and the amount considerably exceeded the whole amount of arrears in Ireland for the four years. Part of the composition which was charged on the occupiers was unpaid, but of the whole amount of tithes considerably more than one half was paid by the landlords, and was not dealt with by that bill; and of the part charged on the occupiers more than one half had been paid by the tenants, and the amount which they had to deal with, even if they left out other deductions, the total amount of outstanding arrears could not amount to one-fourth part of the sum mentioned by the hon. Gentleman. He must, however, say, apart from the pecuniary consideration, the hon. Gentleman had equally misrepresented matter of far more consequence than pecuniary matters. The hon. Gentleman said, that if his right hon. Friend supposed that a grant of money would have the effect of making a permanent settlement of the Irish church question, how strange it was that no such proposition had struck him before. Now he thought that the hon. Gentleman was in the Parliament of 1835 and would he tell him what provision of the present bill was not introduced in the bill which his right hon. Friend had officially brought forward? Was the provision relative to the conversion of tithes into a rent-charge not introduced—was the allowance of 25 per cent. not introduced—was the remission of arrears not introduced? These were the three leading features of the bill introduced by his right hon. Friend, and but for the objections then made on the other side of the House that measure would have been the law at the commencement of the year 1835. The hon. Gentleman then said, that it was easy to propose reforms, but that there was no alacrity in completing them. Now hon. Members on the Opposition side of the House, were not to be charged with vague generalities. The hon. Gentleman, however, charged them with vague generalities, and asked had they proposed to cut off sinecures?—had they proposed to cut off superfluous salaries?—had they suggested a more equitable distribution in the Irish church? Was the hon. Gentleman aware that two years ago he had moved for leave to bring in a bill, the object of which was to regulate the very details which the hon. Gentleman mentioned? He thought it was probable that the hon. Gentleman was one of those who had refused him leave to bring in the bill: he knew, however, that he was refused; it was introduced into the other House—it was sent down to this House—it was asked for by the Lords, and yet this House had refused to take it into consideration. He knew also, that the Government had last year introduced a similar bill, that it had been read a second time, and that it was then abandoned—why, he could not tell. No objection that he knew of was made by his friends; he knew, that they were anxious that it should be introduced, but they were told by the noble Lord the Secretary of State for the Home Department that it was such a complicated measure that it would prevent a satisfactory settlement. So far for the charge of vague generality. But if the hon. Gentleman was not satisfied, why did he not submit his own suggestions to the House in a bodily shape? But the hon. Gentleman added, here you are abandoning all your principles; "you object to the appropriation clause, but you consent to plunder the Church of 25 per cent; here is the appropriation principle in the most objectionable shape." Was it an appropriation—then why did they turn his right hon. Friend out of office in 1835? Was the reduction of 25 per cent. an appropriation? Why was this put forward? Because, according to hon. Gentlemen opposite, they could not embody in a bill the appropriation principle, and to cover themselves when they were forced to abandon it they now said that the principle of appropriation was contained in this bill. What, however, was proposed by it? Simply to charge on the landlords of Ireland what was now chargeable only on the tenant. What had he (Lord Stanley) proposed in 1832? Was it not a reduction of 15 per cent., and why did he cease in 1834 to form part of the Administration? Because he would not consent to the appropriation. Yet he consented to the reduction of 15 per cent. on account of the landlord's risk and the pecuniary loss which they would sustain, in consideration of the greater security which the Church would obtain. Lord Hatherton had, in 1834, proposed to make the payment compulsory on the landlords, and had given them, as he was bound to do, at least the same amount of deduction as he had consented to, 15 per cent. Was there any appropriation in that? Why the Chancellor of the Exchequer had said that so far was there from being any introduction of the appropriation principle in those proposals that the principle never was introduced except by the Government which succeeded his right hon. Friend. Yet they were now told that when the landlords were rendered chargeable with a burden to which they were not up to this time liable, and when a remission was made to them, that they admitted the appropriation principle. Because they increased the liability of the landlords, it was but common sense and reasonable justice that they should be thought entitled to some remission. It was impossible to say with accuracy what that amount should be; he (Lord Stanley) thought that 30 per cent. was too much, and for himself he would say that 25 per cent. was a larger allowance than he would have wished to have been given. He knew, however, that they could not argue a question of this kind upon mathematical principles: he knew that they must deal with it according to what, in the opinion of those who were called upon to deal with the subject, was a fair compensation for the increased liability of the landlords. This was the broad distinction between this and the appropriation principle: with the one he saw good grounds for dealing, the other he had resisted, and he always would resist the alienation of Church property to secular purposes. The learned Gentleman said that, after all, the grant would not produce peace. This he admitted; but it was only a necessary subsidiary to something more important. They relied for its success upon the transfer of the payment to the affluent from the poor—from the pauper tenant to the solvent landlord—from those to whom the payment was disproportioned to their means to those to whom the payment was easy—a transfer which, while it relieved those who had scruples, would fix the payment on those who could have no such scruples, if they were Protestants. What a large proportion of these were Protestants? And even if they were not, under what liability did they purchase their estates? Now, if he purchased an estate which was liable to a mortgage, and if the mortgagee, not being a Christian, should apply the interest which he paid to the maintenance of a Jewish synagogue, did that form a fair objection to the payment of interest? Ought he to oppose the payment because his scruples of conscience led him not to approve of the application of it to a Jewish synagogue. He would have accepted the estate liable to the payment, and so had the landowners in Ireland theirs. Where, however, could they better place this payment than by transferring it from those who were poor in circumstances, and who were opposed to our religion, to those who were in easy circumstances, and were of the same religion as ourselves; from those who were easily liable, on account of their numbers, to be excited, to those who, in the association of parties, were not likely to be actuated by the same reasons? Further than this, they did not expect that this measure would lead to tranquillity, nor did they expect that it would produce peace, unless it were made subsidiary to a measure for the non-enforcing of the arrears. He did not, therefore, say that the grant would produce peace; but it was essential, as a temporary object in settling the question on a new basis, to remove the arrears. Would the hon. and learned Gentleman desire that the arrears should be enforced—would he charge the landlords with the composition without making any allowance—would he assist the clergy in enforcing their demands—or would he discharge the arrears, giving to the clergy no compensation? If the hon. Gentleman would do this, then he would leave him to point out any violation of principle, for there was only one — and that was caused by a rejection of his right hon. Friend's amendment; for he admitted, that there was a violation of principle in compelling any man to surrender his property against his will, without receiving a fair equivalent. He objected to this measure; but the question for him to decide was, whether he ought to resist this bill, and to perpetuate the existing system; and he confessed, that after consideration, he would not take upon himself the responsibility of this course. It would be easy for him to vindicate his consistency; he might say, that from first to last, he had opposed injustice, and that no question of expediency should lead him to depart from the strict line of abstract principle; it was easy for him to say this, but in what difficulties would he place the country? And if he did consent to this measure, he did so for the purpose of supporting a dereliction of principle in the Government to which he (Lord Stanley) was opposed. When called upon by his constituents to explain his course of conduct, it would have been easy for him to say to those constituents, that he had been overborne by the Government, that he had done all he could to throw an obstruction in the way of the principle proposed; but he must also in justice have added, that he had also thrown an obstruction in the way of a settlement of this question. He preferred, therefore, to subject himself to some reproach from the public, rather than to endure the reproaches of his own conscience for having contributed towards the continuation of the dissensions in Ireland. He did not share in the sentiments of the noble Lord, the Member for Devonshire. He had heard, with unfeigned regret, from a nobleman, professing attachment to the establishment, that he rejoiced to think, that they were transferring resistance to the Irish Church, from the weak to the powerful, and that he supported this measure, because he thought, that it would lead to the overthrow of the Established Church in Ireland. He, however, founded his support to the bill on an entirely opposite principle. He was compelled to declare in the face of the public, that the law could not be maintained. He was compelled to consider what was the state of the Irish Church, and especially what had been the state in which individual clergymen had been placed during the last four years, aggravated as it had been according to the authentic statement of her Majesty's Government. He supported the present bill then, because in the main, it led to good, because he hoped that it would lead to peace, because he trusted, that the House would relieve the pecuniary embarrassments of the clergy of Ireland, because it would render the Church more secure, and less obnoxious to the people, and because it would have a tendency to uphold more firmly, that establishment which some hoped to see subverted, but which it had been his object through life to maintain.

Mr. *O'Connell* would only trespass a few moments upon the attention of the House. He confessed, that he had seldom experienced greater pleasure than he had done in listening to the speech of the noble Lord, not on account of the mental power which it displayed, for that to the noble Lord was easy, but because the noble Lord and he were at length perfectly agreed, that the present system of tithes in Ireland, could not be maintained; for it was a fact beyond doubt, that tithes could not remain as they now were: there was something in them so anomalous, so inconsistent with policy, and with a statesmanlike view of Government, that an experiment was at length to be made to maintain tranquillity, and to improve the system. So far they were agreed. But he did not think, that the noble Lord's Jewish simile was at all applicable. It was not to the debt, but to the purposes to which it was applied, that the Irish objected. Tithes were not like a personal debt, like that mentioned by the noble Lord: they were a debt which the Catholic ancestors of the Irish people bequeathed to the Catholic Church. The Catholics of Ireland gave the tithes for Catholic purposes, when even the name of Protestant was not known; but an Act of Parliament took them away from the Catholics, and gave them to a small minority of Protestants for Protestant purposes; and it was on account of the comparatively small portion of those to whom they were devoted, coupled with the recollection, which would never be effaced, whence the tithes had their origin, which was the foundation of the objection to the tax, and which made the noble Lord, in order to save the principle of application, consent to an experiment to maintain them. He understood from the speech of the right hon. Baronet (Sir Robert Peel), that the bill might be altered elsewhere. He might have mistaken the right hon. Baronet, but of what value would the bill be if it were altered? He trusted, that if it were changed, the Government would abandon it. That, he thought, was the best way of dealing with bills, which were so interfered with, as to take away their utility. If the optional principle were introduced, of what value would the bill be? Indeed, he thought, that the Government had left one ingredient in it, which, he feared, would take away its chance of producing tranquillity, by exempting from its operation all those cases in which suits had already been instituted. These were the very cases which at present created the greatest vexation. They might tell the clergymen of the Established Church, that they might make some arrangement, and that they might make some abatement or another, but if hon. Members opposite, expected any good results, he was afraid, that hon. Members would deceive themselves. He rose principally to recommend this point to the attention of the House. Every considerate man ought to make an arrangement at once, either to take a portion of the costs, or to settle with his attorney; this might be done out of the money already in the hands of the clergy. A fund had been largely subscribed in Ireland, and he believed, also, in England, to enable the clergy to carry on their suits; he did not think, that it was exhausted, and disturbances would continue if the Protestants of the Established Church did not procure some abatement of the costs in the suits commenced against the occupiers; this did not, however, apply to the suits against the landlords. It was most important that some arrangement in this respect should be made, and he was sorry to venture to prophesy that many of the clergy would not be found willing to make this sacrifice. He knew a case in the county of Cork where the parishioners offered to pay the tithes on an abatement of 15 per cent., but the titheowner preferred giving 20 per cent. by granting the tithes to another person, and he bound that gentleman not to remit one farthing to the occupiers. If this spirit were followed up by others, the bill would have little of healing in it. Here was an option left to the clergyman, and hon. Gentlemen would be able to see how the tithe owners would avail themselves of it; how they would be willing to mitigate the costs, to give relief; and by the results they would see how far the clergy would avail themselves of the option. One great advantage which the Protestant clergymen would derive from the bill, would be the remission, first suggested on this occasion by him (Mr. O'Connell). He said, that they would derive great advantage by the remission of the 640,000*l.*, for although their claims against the tenants, as well as the landlords, for the arrears were clear, yet those claims were not available, and, consequently, the clergy received a bonus from the remission; and it ought, therefore, to be the desire of the friends of the clergy, both in and out of that House, to instigate and to advise the mitigation of the claims for costs. He repeated, that if this bill were altered in the House of Lords, if an option were inserted in it interfering with its present principles he for one should feel himself entirely disengaged. He might have misunderstood the right hon. Baronet, but if he were right in his opinion of what had fallen from him, he said, that, if the principle of option were introduced in the House of Lords, he, for one, would vote against the bill when it should come down again to that House. The question of the appropriation clause had been introduced into their debates, but there were two sorts of appropriation—a useful one, when it was proposed to apply the surplus to good purposes, such as education and the like; and a bad principle, when it was given to the landlords or to any other body. The truth was, that in these last discussions they had confounded both those classes, because each was an appropriation; now the former appropriation was a good principle, but what was now discussed was bad. Before, it was proposed that the tithes should be collected by the office of Woods and Forests at a cost of 2½ per cent., and all that was by this bill given above that amount was an appropriation to the landlords; it was not 25 per cent., it was true, but it was 22½ per cent; and it was not only a bad appropriation, but it was a clear sacrifice of legal property. He owned, for his part, and he was candid enough to admit that he agreed with the noble Lord the Member for Devonshire—he believed that the fact was as the noble Lord had stated it, and he announced to the great supporters of the Church of England, that they had never aimed so destructive a blow at the temporalities of that Church as they had by assenting to this bill. Why, Lord Mountcashel, who was not favourable to the Catholics, and who he believed belonged to that class in the establishment who had been called by the hon. Member for Southwark, Evangelists, with all his evangelism had presided at an anti-tithe meeting in the county of Cork, a tumultuary and determined meeting—tumultuary on account of the numbers who were assembled. Gentlemen of the western division of Cork, who, when there were orange lodges, for they were told that they had ceased, held high offices in the body, had lately assisted at a meeting called to petition agaist tithes. He knew that in many instances the landlord would pay the rent-charge and not charge the tenant, but this would not be general; and those who could not get this payment from their tenants would be in perpetual hostility with them, or if they did not wish for such hostility, nor yet to pay this charge out of their own pockets, a class of Whiteboys would be thus created such as they had never had before, and they would be aiming a blow at the Protestant establishment from their extreme zeal to keep it up. They might hope for a time for a lull, a cessation, but common sense would in the end prevail. It would be no longer in the power of persons to carry a county election by talking of the heavy blow which Lord Melbourne was going to give to the Church of Ireland. It would not be necessary, for a few years at least, to abuse Popery from the hustings, and he, therefore, hoped that a period of common sense would arrive in England, and that the English people would look distinctly to facts. He would ask whether it was not a maxim of their common Christianity, the doing as you would be done by? And as the people of England would not endure to support an Established Church for a Catholic minority—as the people of Scotland would rather die to the last man than support a Catholic establishment for a Catholic minority, so he thought that common sense in England, and the still more powerful motive in Scotland, might prevail in Ireland, and that they would in time come to the determination to leave the wealthy Protestant gentry to support their Church, as the poor Catholic population supported their own. There was nothing like the state of Ireland on the face of the globe. Even the Turks had never inflicted upon the Greeks the payment of money towards the support of their mosques. It was only in Ireland that such a thing existed, and why should it exist there? The people of Ireland supported a hierachy with four archbishops, twenty-seven bishops, deans, archdeacons, parish priests, and curates, without exacting or the power of exacting a single farthing, except from those to whom they administered. They boasted of their Protestantism. Why did they not trust to it to maintain its own clergy? They talked, the noble Lord who spoke last, at the close of his very eloquent speech, talked of his attachment to the Protestant Church. Why did they not dignify that Church by keeping its hands out of the pockets of those who did not belong to it? As long as they insisted upon this what sensation could they expect to raise but those of plunder and oppression? He was rejoiced at the sentiments that had been uttered by the noble Lord the Secretary at War. He trusted that a long career of utility would be open to him—a career of utility of which they had proof in the advocacy of principles that entitled him to the foremost station in the Government of his native country. Those sentiments would go out of that House, and be confirmed by every rational and good man, and would give a hope that the connection would become a real union between the two countries. He did not think that they were exhibiting any wisdom if they thought that the shifting the burden of tithes from one side to another would render it more easy. They were giving up their attempt to recover tithes from the poor, and he could tell them that the richer party would defeat them.

Sir *R. Peel* said, that the hon. and learned Gentleman seemed to think, that he had expressed an opinion favourable to the introduction of the optional clause. He had done no such thing. There was the alternative of leaving the law as it stood, and abandoning the present grant, or of accepting the grant, and he preferred the latter course. Of course the other branch of the Legislature, in which the

Irish Church was more fully represented and in which questions relating to property were looked to with greater vigilance would have to decide which of these alternatives to accept. At the same time, as he had before stated, his opinion was in favour of accepting the grant.

Lord *J. Russell* should not think it necessary, seeing the great impatience of the House, to restate the opinions which he had stated on a former occasion upon this question. He must say, that the opposition made to the present bill, and the various reasons given by hon. Gentlemen for rejecting the bill, had failed to convince him, that the course taken by the Government was not the most expedient, that they could pursue. Although the hon. Member for Southwark had found fault with him for saying,—not, by the by, quoting him correctly—that it was easy for persons having no responsibility to object to any measure, that might be brought forward, yet, he must say, that the whole of his speech convinced him further, that it was very easy for a person of ingenuity to make objections to a bill, and to show, that it was contrary to the ordinary principles on which legislation was founded, and yet there might be no better course for Government or Parliament to pursue. Some hon. Gentlemen were in favour of the voluntary principle, and others called for the total extinction of tithes, but it could not be expected, that either Government or the majority of that House would pursue either course. Again, they had been reproached with not following up the appropriation clause for the benefit of all classes in Ireland who would receive religious instruction. That course might, no doubt, have been adopted by Government. But would any of those Gentlemen who reproached him for not taking this course venture to say, that he thought a bill containing that clause was likely to be passed, or was likely to attain the object of establishing that principle in the statute book? The question was between doing nothing whatever, not moving a single step towards removing the evils, that existed in Ireland, on this subject of tithes, and adopting a bill to which the Legislature might be brought to agree, a bill like that before the House. He must say, that the person who would ask them to rest without producing any measure would fail to convince him, that that was the right course, for it was one from which no possible advantage could be obtained, by which the evils existing in Ireland would be continued; and those conflicts to which the hon. Member for Drogheda (Sir Wm. Somerville) had borne testimony would be continued, if they did not propose some measure on this subject. It was easy for them to say, that their measures had been rejected by the House of Lords, that they retained the same principles, but that, seeing it was impossible to carry any measure, they abstained from bringing forward any measure on the subject. That might be considered a very easy course, and more consistent with the opinions they had formerly declared, but would that be a course from which the people of Ireland would derive equal benefit as from the present. On the contrary the hon. Member for Drogheda, although he disliked the provisions of the bill said, that he did not feel authorised in voting against it. Was not this testimony? Those persons who lived in Ireland, and who saw the evils, that were produced by tithes, and the conflicts arising out of the collection of them, thought it better, that some legislation should take place. The hon. Gentleman, the Member for London (Mr. Grote), with his usual calmness, and in his most dignified tone, had at the same time made a most severe and bitter attack on the Government, stating, that this was another melancholy instance of postponing principle to party, and he charged him (Lord J. Russell) with tergiversation The hon. Gentleman had a right to his own opinion, that it would be better to introduced a bill containing the voluntary principle, or any other; but he had no right to blame others, acting with a deep sense of responsibility, with what he called postponing principle to party on this subject. With regard to his own opinions on this subject, he must say, that his noble Friend (Lord Stanley) knew, that those opinions were not taken up lightly, or introduced for the first time with a view of depriving the right hon. Baronet of office. His opinions had been frequently stated before to those with whom he was connected in politics or by friendship. He had stated them amongst the advisers of the Sovereign; he had stated them in that House; and those opinions having been stated, the opinion of the party to which he belonged inclined in favour of his noble Friend, and not in favour of him. The hon. Member had, therefore, no right to say, that it was for the sake of party, or with a view to party, that he had originally maintained those opinions, If he thought it best for the sake of Ireland not to introduce that principle in the present bill, it was because he had been convinced, as he had already stated on repeated occasions, that he should not attain any successful result to Ireland by proposing that principle; that in proposing it he should be deferring indefinitely the mitigation of the evils of the tithe system; and he thought, therefore, that it was better for Ireland, for the sake of the Irish people, to propose a bill containing the provisions of the present bill. What were those provisions? Did they improve the condition of Ireland? And in what state did they leave the various interests embarked in it? It was universally admitted, that the condition of one great class was improved—he meant the condition of the small occupiers, of whom the hon. Member for Drogheda said, that they were by this bill entirely relieved, and of whom the hon. and learned Member for Dublin said, that in most cases they would obtain an entire remission, having to pay their rent without the deduction of the rent-charge which was the equivalent for tithes. According, therefore, to the testimony of those Gentlemen, and according to what was evident from the bill itself, there would be a great improvement in the condition of those persons from the provisions of this bill. But what was the condition of the tithe-owner relative to the tithe-payer? The condition of the land-owner would be this:—They had no right to tell him that they would force him to take upon himself the whole of the rent-charge, to which he was not liable by law. They had no right to tell him that the whole one hundred per cent. was payable by him, he not being legally liable to the charge. What, then, did they propose? That the landholder should be liable for the payment of a rent-charge to the clergy in place of the composition for tithes, but that a certain deduction—thirty per cent., as he had proposed, but twenty-five per cent., as it had been fixed, should be made as an equivalent to him for having a charge imposed upon him for which he was not liable. But the landowners would in the end obtain a very considerable compensation. In the first place their tenants would not be subject to perpetual vexation and conflicts with the titheowner, and in consequence of the tranquillity that would ensue, the value of property would be greatly increased; and, although the landowner might not immediately receive the whole of his rent-charge, he would do so after this act should have been in operation for a few years, and the distinctions between rent and tithe should cease. The question would be what was a fair rent for a good tenant to pay for land? and not how much of it was rent and how much tithe. He could not suppose that this measure would produce tranquillity in Ireland, without supposing that ultimately all differences between rent and tithe would be lost sight of altogether. He must say that one observation of his noble Friend (Lord Ebrington) had hardly been correctly represented by the right hon. Gentleman opposite (Sir R. Peel). His noble Friend had said that there would still be a contest for some alteration in the Church; but the contest would be of a very different nature, because, instead of being a contest supported by physical resistance on the part of the poor and humble occupier, it would be the constitutional and moral resistance of the landowners, representing through Parliament their opinions with regard to the Church, and having a natural influence on the deliberations of Parliament. The right hon. Baronet understood his noble Friend very differently from him, for that was certainly the way in which he understood his noble Friend's observation; and he did think, in that sense, it was a very fair observation to make, namely, that those persons who would wish hereafter to make a change in the institution of the Church, would be persons who would not attempt to do so by resistance to the law, but persons who, from their situation in life, their property, and their station, could make their sentiments differently understood, and that the contest would be like any other constitutional contest. He did not think, therefore, that his noble Friend's observation was open to the comment which the right hon. Baronet had made upon it. The hon. Member for Kilkenny had found fault with the bill because he considered that it contained a very unjustifiable grant of the public money. He thought that the sum devoted to this purpose was far from being a useless and far from being an unreasonable sacrifice of the public money, and he indeed thought that there were few objects to which the public money could be devoted that were so easy of defence. The right hon. Baronet (Sir R. Peel) said, that the better way would have been to have ascertained the amount of the arrears. He was not of the same opinion. He had but one other observation to make. As the right hon. Baronet had said, it was perfectly competent to the House of Lords, if they thought fit, to reject this arrangement. It was not competent to them to alter the arrangement. Having said, that they would devote a portion of the public money to certain purposes for the Lords, to modify or alter the application of that money was not consistent with the privileges of that House. It was consistent with their Lordships' privileges to reject the grant; and he had no doubt but that the hon. Member for Kilkenny would be disposed to concur very much with them if they took this view of the subject. He (Lord J. Russell) certainly hoped, considering the benefits that would accrue from this bill, that it would be accepted as a whole. He considered that this bill would be a very considerable mitigation of the evils that afflicted Ireland on this subject. He did not expect, he could not expect, that the great body of the people of Ireland would be satisfied with the state of the Protestant Church; but as far as the Church was concerned, he thought that this bill would render it more secure, and, as far as the people were concerned, he thought it would render them more tranquill and more satisfied.

Major *Bryan* said, he did not think this measure would satisfy the people of Ireland, although it might for a short time procure tranquility.

The House divided on the original motion. Ayes 148; Noes 30;—Majority 118.

List of the AYES.

A Court, Capt.
Adam, Admiral
Alsager, Captain
Archbold, R.
Ball, rt. hon. N.
Bannerman, A.
Barnard, E. G.
Bellew, R. M.
Benett, J.
Bernal, R.
Blair, J.
Blake, W. J.
Blennerhassett, A.
Brabazon, Lord
Bradshaw, J.
Bramston, T. W.
Bridgeman, H.
Broadwood, H.
Brodie, W. B.
Brotherton, J.
Brownrigg, S.
Bruges, W. H. L.
Bryan, G.
Campbell, Sir J.
Canning, Sir S.
Chapman, A.
Childers, J. W.
Chute, W. L. W.
Clements, Lord
Corry, hon. H.
Crawley, S.
Curry, W.
Dalmeny, Lord
Dalrymple, Sir A.
Denison, W. J.
Dick, Q.
Douglas, Sir C. E.
East, J. B.
Ebrington, Visc.
Egerton, W. T.
Elliot, hon. J. E.
Estcourt, T.
Estcourt, T.
Evans, G.
Farrand, R.
Ferguson, Sir R. A.
Follett, Sir W.
Fremantle, Sir T.
French, F.
Gordon, R.
Gordon, hon. Capt.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Greene, T.
Grey, rt. hon. Sir C.
Grey, Sir G.
Hastie, A.
Hawkins, J. H.
Hayter, W. G.
Henniker, Lord
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Hodgson, R.
Hogg, J. W.
Hope, G. W.
Hoskins, K.
Hotham, Lord
Howard, P. H.
Howick, Visc.
Hurst, R. H.
Hutton, R.
Inglis, Sir R. H.
Irving, J.
James, W.
Jones, T.
Kinnaird, hon. A. F.
Knight, H. G.
Knightley, Sir C.
Labouchere, H.
Lascelles, W. S.
Lefevre, C. S.
Lemon, Sir C.
Leveson, Lord
Lincoln, Earl
Lowther, Col.
Lowther, J. H.
Lygon, hon. General
Mackinnon, W.
Macleod, R.
Maher, J.
Martin, T. B.
Meynell, Capt.
Morpeth, Lord
O'Brien, W. S.
O'Connell, D.
O'Connell, M. J.
O'Connell, M.
Palmer, C. F.
Palmer, R.
Palmer, G.
Parker, J.
Parker, M.
Peel, rt. hon. Sir R.
Perceval, Col.
Perceval, hon. G. J.
Phillpotts, J.
Pinney, W.
Polhill, F.
Ponsonby, C. F. A.
Power, J.
Praed, W. T.
Price, Sir R.
Protheroe, E.
Pusey, P.
Redington, T. N.
Reid, Sir J. R.
Rice, rt. hon. T. S.
Rich, H.
Richards, R.
Rolfe, Sir R. M.
Rose, rt. hon. Sir G.
Round, J.
Rushbrooke, Col.
Russell, Lord J.
Sandon, Lord
Scrope, G. P.
Sheppard, T.
Smith, J.
Smith, R. V.
Somerville, Sir W. M.
Stanley, Lord
Stewart, J.
Stock, Dr.
Sturt, H. C.
Teignmouth, Lord
Thomson, C. P.
Townley, R. G.
Trench, Sir F.
Troubridge, Sir E.
Vere, Sir C. B.
Vivian, J. E.
Westenra, J. C.
Wilshere, W.
Wood, C.
Wood, T.
Yates, J. A.

TELLERS.
Stanley, E. J.
O'Ferrall, R. M.

List of the NOES.

Aglionby, H. A.
Chalmers, P.
Collins, W.
D'Eyncourt, C. T.
Duke, Sir J.
Fielden, J.
Finch, F.
Grote, G.

Hall, Sir B.
Harvey, D. W.
Hawes, B.
Hector, C. J.
Hutt, W.
Langton, W. G.
Leader, J. T.
Lushington, Dr.
Lushington, C.
Marshall, W.
Martin, J.
Morris, D.
Muskett, G. A.
Salwey, Col.
Style, Sir C.
Thornely, T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Warburton, H.
Ward, H. G.
Worsley, Lord

TELLERS.

Browne, D.
Hume, J.

Bill read a third time.

Some verbal amendments having been made in clause 38 on the question that it stand part of the Bill as amended,

Mr. *Hume* rose to move that the 38th clause be excluded from the Bill, on the ground of the purposes to which it appropriated various sums of money, amounting to nearly one million sterling. He was pleased at the discussion which had taken place on the bill that evening, as it would enable the people of England to see the reasons on which this money was to be voted away. The noble Lord opposite had told them that night that he had adopted the principle of expediency, because he saw no other principle on which he could support this measure. He begged to call the attention of the noble Lord to the fact that it was not to the amount of the money that the people of England would object, but to the purposes for which, according to this clause of the bill, that money was to be applied. When the noble Lord himself, on a former occasion, brought forward a measure for the reform of the Irish Church, he (Mr. Hume) and others supported it, because it provided for the abolition of the sinecures of that Church. All their hostility was directed against the system on which that Church was supported, and not against the Church itself. What they objected to was the principle that the Establishment should be maintained as a dominant Church in Ireland—and they looked upon the payment of this money as a sort of payment of black mail. Were they, as guardians of the public purse, doing their duty in consenting to it? It was pledging the Treasury to the payment of a million more in addition to the existing deficit of the revenue, which was sufficiently great without any further addition to it. The noble Lord had said that the hon. Member for Southwark was mistaken as to the amount of the arrears, and that only one quarter of them remained at present unpaid. But if all but that one quarter had been paid, then he held that the remainder ought also to be paid. It was the hon. Gentlemen opposite who had themselves, by their conduct on former bills, introduced for the purpose of settling the tithe question in Ireland, brought the Irish Church into the position in which she was at present; and they now had recourse to the noble Lord (Stanley) who came forward to assist them in propping it up. The hon. Member concluded by moving the exclusion of the clause.

Mr. *Harvey* said, that he could not allow the statement which had been made by so high an authority as the noble Lord (Stanley) with reference to the observations which he had addressed to the House that evening to pass uncontradicted. The noble Lord had imputed to him an ignorance of the subject before the House, because he had said, that the arrears due to the tithe-owners in Ireland during the four years preceding the present might amount to 2,400,000*l.* But he had not said it was so. He had only said, that the arrears might amount to that sum—and surely if in 1832, 1833, and 1834 tithes did not exceed 1,000,000*l.* it was not an unfair inference that a very much larger amount of tithe would be due at the present time. But if it was only 300,000*l.* that remained uncollected, then he would say that that sum ought to be collected as well as the rest—and it was a farce, until it was proved that it could not be collected, to call the tithe debtors the poor people of Ireland. If the state of the law in that country was such that it could not be enforced but at a ruinous expense, was that a reason why they should forego the property in tithe? Why not bring in a bill to facilitate the collection of tithe? The noble Lord said he supported the bill because it would tend to the tranquillity of Ireland, first, by reducing the amount of tithe to be paid by twenty-five per cent.; and, secondly, by the payment of the arrears. But the arrears were due from those who borrowed the money of this country—and why, if the Irish people were so poor, were the people of England to pay the debt? The Church of Ireland ought to supply the fund out of its own overgrown resources—for it was notorious that the Irish hierarchy possessed upwards of 600,000 of the finest acres in the country, and some of their product ought to be made available in cases of emergency like this. The payment of these arrears ought not to come out of the Treasury of England, which ought not to be robbed for the purpose of paying what was due from the so-called poor of Ireland to the wealthy proprietors of that country. They would next be called upon, he supposed, to pay the debts of persons confined for debt in Ireland if they sanctioned such a principle as this, Peace neither could, would, nor ought to be purchased at such a price—and when the noble Lord asked him why he (Mr. Harvey) did not bring in some bill of his own on this subject, let him ask what chance any bill would have, even of an introduction into that House for the reform of the Irish Church, if moved for by a Protestant Dissenter? He would most cordially support the motion of his hon. Friend the Member for Kilkenny.

The House divided on the original question:—Ayes 96; Noes 39: Majority 57. Bill passed.

List of the AYES.

Acland, T. D.
Alsager, Captain
Alston, R.
Archbold, R.
Ball, rt. hon. N.
Benett, J.
Bentinck, Lord W.
Bernal, R.
Blackburne, J.
Blair, J.
Bramston, T. W.
Bridgeman, H.
Broadley, H.
Broadwood, H.
Brownrigg, S.
Bruges, W. H. L.
Bryan, G.
Chapman, A.
Clements, Viscount
Curry, W.
Dalmeney, Lord
Douglas, Sir C.
East, J. B.
Egerton, W. T.
Elliot, hon. J. E.
Ellis, J.
Evans, G.
Farnham, E. B.
Ferguson, R. A.
Filmer, Sir E.
French, F.
Goulburn, H.
Graham, Sir J.
Grant, F. W.
Grey, rt. hn. Sir C.
Grey, Sir G.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodgson, R.
Hogg, J. W.
Hope, G. W.
Hoskins, K.
Howard, F. J.
Howard, P. H.
Howick, Viscount
Hurst, R. H.
Hutton, R.
Inglis, Sir R. H.
Knightly, Sir C.
Labouchere, H.
Lascelles, hon. W.
Lemon, Sir C.
Lowther, J. H.
Macleod, R.
Martin, T. B.
Maule, hon. F.
Morpeth, Viscount
O'Brien, W. S.
O'Connell, D.
O'Connell, M. J.
O'Connell, M.
Palmer, C. F.
Parker, J.
Parker, M.
Peel, rt. hon. Sir R.
Perceval, Colonel
Perceval, G. J.
Phillpotts, J.
Pigot, R.
Power, J.
Pusey, P.
Rice, rt. hon. T. S.
Richards, R.
Rolfe, Sir R. M.
Round, J.
Rushbrooke, R.
Russell, Lord J.
Sandon, Viscount
Sheppard, T.
Smith, J. A.
Stanley, Lord
Steuart, R.
Stock, Dr.
Sturt, H. C.
Teignmouth, Lord
Thomson, C. P.
Thompson, Alderman
Townley, R. G.
Troubridge, Sir E. T.
Vere, Sir C. B.
Verner, Colonel
Vigors, N. A.
Waddington, H.
Wilde, Sergeant
Wodehouse, E.
Wood, C.
Yates, J. A.

TELLERS.

O'Ferrall, R. M.
Stanley, E. J.

List of the NOES.

Aglionby, H. A.
Baines, E.
Berkeley, hon. H.
Brodie, W. B.
Brotherton, J.
Chalmers, P.
Collins, W.
Craig, W. G.
D'Eyncourt, C. T.
Duckworth, S.
Duke, Sir J.
Easthope, J.
Fielden, J.
Finch, F.
Grote, G.
Hall, Sir B.
Harvey, D. W.
Hayes, Sir E.
Hector, C. J.
Hutt, W.
James, W.
Leader, J. T.
Lushington, Dr.
Lushington, C.
Marshall, W.
Martin, J.
Morris, D.
Muskett, G. A.
Protheroe, F.
Salwey, Colonel
Style, Sir C.
Thornley, T.
Villiers, C. P.
Wallace, R.
Warburton, H.
Ward, H. G.
Williams, W. A.
Wood, G. W.
Worsley, Lord

TELLERS.

Hume, J.
Hawes, B.

MAILS ON RAILWAYS.] On the question that the Mails on Railways Bill be read a third time,

Mr. *Easthope* said, that, before the bill passed, he wished to enter his protest against the language which had been held against those who opposed the bill as it was introduced to the House. Those who had taken an interest against the bill had been represented as a set of men who desired to appropriate the Post-office revenues to their own uses. The proprietors of railways had been held forth as a set of rapacious adventurers, reckless of all principles of justice and fair dealing. He felt particular regret, that any one connected with the Government of the country should have sanctioned such a tone as this. No desires or feelings of this character actuated the individuals who were so grossly maligned. Parties connected with railway interests were held forth to the public as though on their trial; and, forsooth, on their trial for what? For promoting at their own risk great national undertakings, of the value and public utility of which there were now not two opinions, and without the prospect of any advantage beyond that which Parliament itself had declared to be equitable. Any hon. Gentleman who looked at the evidence before the railway committee on this subject would find, that that evidence was all one way, and the resolutions moved under the auspices of Government all the other way. The bill, as it was first introduced, was in utter defiance of all the acknowledged principles of the rights of property—of all the principles which had ever been deemed essential to the security of the property of the country: it proposed to take possession of the property of railways, without any remuneration whatever. This proposition was in absolute defiance of the evidence taken before the committee, in defiance of all the great and acknowledged principles of justice, whilst those who opposed the bill were held up to the country as a set of rapacious adventurers, eagerly bent upon appropriating the Post-office revenues to their own benefit. Again, they were told, that if, upon the original introduction of railway bills, it had been claimed to insert a clause by which mails should be passed along the railways free of charge, the claim would have been readily conceded; and it was said, that the public interests had been injured by the non-introduction of such powers in the first instance. Now, he did not mean to say but that there might have been parties connected with the original promotion of some of these bills, such as the legal gentlemen, whose interests in them were mostly temporary, and the engineers, whose interest was in their construction: he did not mean to say but that these parties, in their anxiety to secure their temporary advantages, might have given their assent to what he (Mr. Easthope) should ever consider a most monstrous proposition; but he would put it to the House whether it was to be borne, that individuals who had advanced their capital in undertakings in which they could not be by any means certain at the time of realizing a return were to be stigmatized as rapacious adventurers, because they claimed what had been guaranteed to them by Parliament? And he would ask, whether it was honest or proper on the part of the Government, to sanction a measure by which the property of railway proprietors was invaded, and by which the rights secured to them were so shamefully infringed? He was sorry that a Government which he had generally supported, should be justly considered an anti-railway Government. The bill was far from creditable to them; it would afford them no advantage which they could be proud of; and when this precious bill was compared with the evidence, and whenever the discussions upon it were fairly considered, he should not envy them any merit or credit they might think to derive from their original bill, or from these discussions. A vast deal had been said about the whole of the Post-office revenues being assigned over to the railway proprietors. What was the fact? In the commencement of two or three of the railway bills there was a proposition made by the Duke of Richmond, Postmaster-general at the time, to introduce into them certain stipulations, which were to be the measure of the advantage, or payment, to the railway proprietors; and what said the evidence? That that which was taken by the railway proprietors as a remuneration for their services was not equal to what the Duke of Richmond, by his minute, intended to give them. The Duke of Richmond never contemplated passing the mails along railways without payment: he never, for a moment, conceived the idea of taking possession of the lines of railroad without any remuneration to the proprietors. Nothing of this sort had been started, yet it was with great facility assumed, that had such a proposition been made to the proprietors of railways they would have readily assented to it. It had been asked by the Chancellor of the Exchequer, in a former stage of the bill, why any consideration should be given to proprietors in respect of "the enormous and improper amount paid by them for land?" He, in return, would beg to ask where would be the equity, the honesty, of refusing them a consideration in respect of the sums they had paid for land? Had not Parliament itself dictated the principle on which land should be paid for? Was not land essential to the formation of railroads? Obviously. Why, then, were they to be asked to waive their claim to a consideration in respect of what they paid for land? If what had been really expended for land in the original construction of railroads was, in some instances, improper and enormous in amount, let it be remembered that the companies had paid it under the dictation of the Legislature, and that land was essential to the formation of railroads. The fact, as he believed, was, that the Chancellor of the Exchequer apprehended a considerable reduction of the Post-office revenue by a reduced charge for postage, and, at a time when it was even uncertain what would be the extent of duty prospectively required to be performed by railroad companies, it was sought covertly to cast a great part of this additional burthen on the railroad companies. Thus they were abused as rapacious, and charged with being grasping in their intentions, by parties who sought by fraudulent legislation to throw burthens upon them, against every principle of reason and justice. A bill more destructive of the rights of property, more unfair and unjust towards individuals, than this bill, as originally framed, had never been introduced into Parliament; and, if he were to be denounced because he felt indignant at the measure, he was content to be so denounced. The bill, in its present state, was sufficiently hard and stringent upon the railroad companies: as originally proposed it was characterised by gross dishonesty. As, however, it had been freed from its most obnoxious qualities he should not oppose the third reading.

Bill read a third time and passed.

HOUSE OF LORDS,

Friday, July 27, 1838.

Minutes.] Bills. Received the Royal assent:—Glass Duties; Administration of Justice (New South Wales); Qualification of Members; Judges' Jurisdiction Extension; Waterloo Annuities; Vagrants Acts Amendment; Slave Vessels Capture; Slave Trade (Sweden); Slave Trade (Hans Towns); Slave Trade (Netherlands); Dean Forest Encroachments; Dean Forest Mines; Western Australia Act Continuance; Suitors' Money; Grand Jury Cess (Dublin); Oaths to Witnesses (Ireland); County Treasurers (Ireland); and Linen Manufacturers (Ireland.

Petitions presented. By Viscount Melbourne, from Warrington, against any alteration in the Beer Act. [A Conference on the Amendments made by the Commons in the Irish Poor Relief Bill was held with the Commons, when their Lordships reasons for disagreeing with the Amendments were communicated to the Commons, subsequently the Commons sent up a message stating that they did not insist on their Amendment.]

Copyright.] Lord *Brougham* said, he had to present to their Lordships a bill on the same subject—the protection of copyright—as had lately occupied the attention of the other House of Parliament. The people of this country took great interest in the success of a measure of this nature; and a learned Friend of his, Mr. Sergeant Talfourd, had introduced a bill on the subject. That bill had encountered much opposition elsewhere, and, undoubtedly, it was liable to very great objections. Still, though that attempt had failed, there was a general feeling throughout the country, that a better protection should be extended to the labours of literary men. It was deemed right, that greater security should be given to authors and to their assignees than at present existed. Now, though he did not agree with all the provisions of the bill which had been withdrawn, still he was of opinion, that a measure should be passed doing justice to authors on the one hand, without, on the other, neglecting the interests of the public. He proposed by his bill—first, to do justice to authors, at the same time not extending their claim to copyright to too long a term. The bill which he now introduced had met with the approbation of many individuals of the legal profession, and had also been approved of by some of the learned judges. The plan which he proposed was similar to that which had been adopted with respect to patents. It was his object to enable authors, or their assignees, by application submitted to the Judicial Committee of the Privy Council, to obtain an extension of time, when their term of copyright was about to expire. And, to enable the Judicial Committee of the Privy Council to perform this duty without adding much to their labours, he proposed, that one member of the Judicial Committee, with two others not members of the judicial Committee, should form a quorum, empowered to decide on such applications. Experience had shown, that the labours of the Judicial Committee with reference to patents since 1835 had been most successful. They had recently refused a renewal of Kyan's patent whilst they had, after a brief but searching investigation, extended for seven years Stafford's patent for a safety coach. He hoped that his noble Friend, the President of the Council would assist him in getting the Bill, which he now laid on the table, passed before the termination of the Session.

Bill read a first time.

Municipal Corporations (Ireland).] Viscount *Melbourne* rose for the purpose of moving, that the Municipal Corporations (Ireland) Bill be read a third time. He had before stated, with reference to the amendments which had been introduced by their Lordships into the bill, that though he had a considerable objection to many of them, he had resolved not to be prevented by that circumstance from proceeding with it, or from taking those steps which were necessary to its being submitted in its present amended form to the other House of Parliament. But in adopting this course he felt called on to say, that a further consideration of those amendments introduced by their Lordships in the Committee had rather increased than diminished his objections to them, for he could not help perceiving in them a great increase of the difficulties in the way of the final success of this measure. He would not go into any detailed examination of the amendments, but would content himself with stating generally, that he could not concur in them. There were some of them, however, particularly those which in point of length might be considered the principal ones—he was alluding to such as settled the boundaries of the boroughs in the bill—which he considered an improvement. In saying this he begged not to be understood as pledging himself to them as they were laid down, but he did certainly concur in the principle of the measure settling the boundaries, because, unless they determined this matter when the general question was pending, they knew by experience, that when they came to arrange it afterwards local feelings and local opinions rose up against the boundaries proposed, and constituted a mass of opposition which it was very difficult, if not impossible, to overcome. But there were introduced in the course of this bill many amendments relating to the rights of freemen—to the incoherent rights of freemen—amendments relating to the administration of charities, amendments relating to appointments in the boroughs: there were many amendments in relation to these matters which he considered in the highest degree objectionable, and which, he would say, appeared calculated and intended to frustrate this bill as a measure of reformation, for while they seemed to give municipal Government to the towns of Ireland, they preserved as much as possible of those former abuses which it was the object of the bill to reform and remedy. As he said before, he would not go through them in detail; on the present occasion he would do no more than state most distinctly, that he differed from very many of them; that he apprehended they were not likely to meet with concurrence elsewhere; and, he trusted, if the bill returned to them altered in this respect, that their Lordships would be prepared to consider the alterations in a fair spirit, and with the intention of rendering the bill such a measure as would be calculated to effect the objects with a view to which it was framed. The great difficulty of all—the difficulty which he had felt from the beginning—was the amount of the qualification. To the alterations in that respect he had always stated, that the insuperable objections which he entertained were, that the qualification as it stood at present was too high, and the diminutions in value were so perfectly and entirely uncertain, that it was impossible to calculate them. It was, indeed, a measure of double speaking. It was intended to say to one party it was a considerable diminution of the value of the franchise, and to the other, that it was no diminution at all. It was intended to say to the one party it would be a 10*l.* franchise, and to the other it would be under, considerably under, 10*l.* He repeated, that it was a qualification of a most uncertain value; and with respect to so important a matter as the qualification, he thought that something unquestionable, that something more definite and certain, that something of a fixed meaning, should be introduced. Entertaining these objections to the qualification, he was determined not to move any of those amendments which he gave their Lordships notice he should move at this stage of the bill, because, the qualification being so objectionable, it did appear to him that it would be better for those towns which were not included in the schedule—that it would be more agreeable to the inhabitants of those towns—for so he was informed it would be by those who were best acquainted with their feelings—that it would be more acceptable to let them rest on that clause of the bill on which they might, if they thought proper, apply for a charter of incorporation. He purposed, then, instead of forcing a corporation on such towns, that they should be left to determine, according to their own judgment and experience of the working of the bill, whether they would apply for a charter of incorporation or not. It appeared to him, that the rules laid down in the bill for determining the boundaries of those boroughs which should hereafter apply for and obtain charters of incorporation, would be found extremely inconvenient and objectionable. They were taken, he apprehended, from the instructions given to the boundary commissioners, which were found inapplicable in many instances to the present measure, and which it was not expedient, therefore, that they should lay down for their guide. Under these circumstances, it was not his intention to move any amendments on this stage of the bill. The bill was unquestionably a concession on the part of their Lordships. It bespoke an alteration of the opinion which the majority of their Lordships had held in former years—it bespoke an abandonment of principle which heretofore they were very resolute and determined in maintaining. Now, it might be right in them to take their stand on principle—it might be right in them to oppose themselves to popular clamour or to popular feelings—it might be right in them to oppose measures which were wished for by ever so great a majority of the people; but there was nothing so unwise, there was nothing so absurd, there was nothing so imprudent, as when they were prepared to make a concession not to make it general and sufficiently extensive. There was nothing so unwise as not to take care that they obtained the object for which they gave way; there was nothing so unwise as when they were trying to come to a settlement not to make it on such terms as were likely to be satisfactory, and, therefore, lasting.

Bill read a third time.

Lord *Brougham* could not conceive by what legerdemain the bill had been read a third time. He had not heard the question put, and, therefore, would probably be allowed to proceed. His intention was to move the omission of certain amendments which their Lordships had made in this bill, and which he considered to have a most injurious effect. He agreed with the noble Viscount that the whole of the amendments, with the exception of the boundaries fixed by the bill, which he considered a great good, and with another exception to which the noble Viscount had not adverted, but which he thought another important improvement, namely, the reduction of the number of the boroughs to which corporations were to be given, and the addition of others that might obtain charters of incorporation by application—with these exceptions he objected to all the amendments referred to in the speech of the noble Viscount, and on the same grounds as those on which the noble Viscount objected to them. He also principally objected to the amendment with respect to the qualification. He agreed with the noble Viscount that this was a measure "of double speaking." It was meant to say to the Opposition side, "See, we are raising the qualification to 10*l.*; and it was meant to say to the Ministerial side, "We are lowering the franchise from 10*l.* to something between 7*l.* and 8*l.*" It did neither the one nor the other. It would be a delusion if it did one and not the other, for one side would be deceived by it. If it lowered the qualification to 8*l.*, the other side would be deceived, for they were told, that it would raise the qualification to 10*l.* If 10*l.* were the sum, the Ministerial side would be deceived, because they were given to understand, that it would lower the amount to 8*l.* What, however, was the fact? Why, that it would be neither 10*l.* to please that side, nor 8*l.* to please this, but it would be 13*l.*, or 14*l.*, or 15*l.* Perhaps, on that side, such an increase would not be objectionable; they would probably say, when they made the discovery, that they were agreeably disappointed. But, they must confess to having been deceived, for they had been told the amount would be 10*l.*, and would find it half as much again, while those on his (the Ministerial) side of the House would say, "You gave us to understand the amount would be 8*l.*, but we find it almost double." But the great question was, would that satisfy the people of Ireland? Ought it to satisfy the people of Ireland? He would say, no; they would not be satisfied with it—they ought not to be satisfied with it. What was there across the Channel which made the nature of the Irish people so different from that of the people of England, that the former were not to be trusted with a lower qualification than one of 15*l.*, or 10*l.*, or say 8*l.*, while all the municipal affairs of this great country, with its population of every conceivable variety, and every degree of wealth, agricultural, commercial, and manufacturing—while here, where the infinite variety of circumstances made it more difficult to give a qualification without any property at all, every man in a town, who had a roof over his head, was allowed to have a voice in the management of the municipal affairs of that town. This was a just, a wise, a humane principle of Government, for it gave to the people who paid the taxes, who suffered by the abuses—it gave to those who were most interested in lowering the taxes, who were most concerned in lessening the abuses—it gave to them the power of engaging in the administration of their own affairs, and of keeping watch and ward over the conduct of their fellows, which was a great constitutional principle in these realms. That constitution originally knew no property qualification at all. All freeholders, to the extent of the fraction of a farthing, had, up to the middle of the fifteenth century, a voice in the freeholders' court in choosing delegates to represent them in the Parliament of their country. Till then there was no qualification, and the qualification which was subsequently adopted was low compared with this, because, though what was 40*s*. in Harry the Sixth's reign was equal, perhaps, to 40*l*. in the present day, yet so tender was Parliament of anything that could encroach on the privileges of the people, so determined were they not to raise the qualification when the value of money was altered, that they stood by that sum of 40*s*., as if it had not been equal to the value of 40*l*., and the 40*s*. freeholder had now as much right to vote as had the 40*s*. freeholder in the reign of Harry the Sixth, and he would say, a most wise and constitutional principle it was. Because, depend on it, there was not a more pernicious course to be taken by any government than to make too manifest the distinction between the small number of men in whom the property of the country was invested, and the immense body who had liberties to defend, who had rights to be encroached on, who had their little property—they had a property in their labour—to enjoy, and to be protected by the Government under which they lived; but, above all, who were the sinews of war, whose blood gained our battles, whose sufferings in distressful times were the sufferings of the nation, though only labourers, though not freeholders of 40*s*., though not householders of 15*l*., 10*l*., or 8*l*. They were the men whose sufferings were the sufferings of the country—they were the men whose energies were the strength and glory of the country. He would say, then, that it was as perilous as it was unjust to draw an ideal line, and treat in a different manner the proprietors of estates and the possessors of property on the one side from the labourers on the other side of the line. How many years' purchase did they suppose the property on the right side of the line would be worth, if they ceased to return the affections of that class from which their soldiers were derived, and who occupied the left hand of the ideal boundary? No prudent law-giver would draw that line. If they did, it would be at the peril of the highest interests in the country, They had, therefore, wisely, as well as justly, abandoned that line. There was no such distinction drawn in our Municipal Bill. Three years ago they gave their assent to the principle, that all men occupying a house, whether of the value of 10*l*., 10*s*., or 10*d*., had an equal voice in the election of their municipal officers. Now, he would ask, why was not that rule extended to Ireland? It was most inconsistent with all former policy, most repugnant to all principles of justice; it was a most partial, unfair, and unsafe view of their legislative duties, to adopt one rule for Ireland after having adopted another rule for England. Had they seen, in the three years' experience of the working of the English measure, any reason to repent of what they had done for England? Quite the reverse. All the alarms which were in the first instance entertained about universal suffrage in the boroughs here had been found utterly groundless. Had there been more public meetings held, more petitions presented to Parliament since that time, for extending the Parliamentary suffrage, in consequence of the extension which had been granted in municipal suffrage? There had been, no doubt, petitions presented since that time to Parliament for household suffrage, for universal suffrage, for the vote by ballot; but these had been not only not more numerous in extent and in point of signatures, but they had been fewer in both respects in the three years since 1835 than they were in the three years preceding 1835. Apprehensions, too, had been entertained of riotous mobs and tumultuous meetings as the result of that measure; but such evils were anticipated only by those who were ignorant of the English character. The English were a people with whom kindness was all influential; the more they had conceded to them the more kindly disposed they became to those whom they regarded as their well-wishers. The more they became attached to their Government as to a parental Government, the more they felt a personal interest in that Government—the more it became, as it were, their own concern. This was a feature in the English character, which should never be lost sight of by a wise Government, and which should always actuate them to do everything in their power to conciliate the people, and give them a feeling of personal interest in the Government of their country, making them feel that they were part and parcel of the constitution of the realm. It was the policy of a wise Government to inspire not only the proprietors of the country with such a feeling, but, above all, to make those who were not proprietors feel it. The holders of property were of themselves apt to entertain this feeling; but it was that large majority of the community who were not holders of property whom it was the policy of a wise Government to do all in their power to conciliate, and to inspire with the feeling that they were part of that constitution under which they lived, and which they were called upon to support, and of which, let it be well understood, the knell was tolled if that class once ceased to support it, let the exertions of property and factitious power be what they might. For these reasons he held, that the experience of the past three years was against the present policy, and not for it; and for these reasons he considered that the principle of the English measure ought to have been extended to Ireland, and that it ought not to have been deprived of that which was its brightest quality. All reason, all theory, all experience, induced him to wish, that the English principle should be applied to Ireland, and to protest against the amendments which the noble Viscount had unhappily acceded to. There was one portion of these amendments which was peculiarly calculated to offend and irritate the Irish people, and practically to frustrate the whole plan of reform; it was that by which weighers, market clerks, and all similar officers were to be retained in office, just as though the bill had not passed. The great object of municipal reform was to eradicate abuses; yet the first thing done in this Reform Bill was neither more nor less than to enact by law that the very authors of the abuses which called for suppression, were to be continued in the offices which it was declared they had so grossly abused. These abuses were the gravamen of the charges against the present sytem, yet the children and champions of these abuses were to be continued in their offices. What an absurdity, what a mockery, what an outrage upon the feelings of the people of Ireland. On these grounds, as well as upon others, he deeply lamented the course which had been taken. In conclusion, he would say, that whether this measure was to be considered as grounded on truly wise, and sound, and consistent and abiding principles of legislation, calculated to bear the test of experience; or, whether it was only to be regarded as a measure for effecting the minor, but still most important, object, of conciliating the Irish people, of appeasing the discontents of that long ill-governed country, and of drawing out her prodigious internal resources, by giving her tranquillity and security, in which ever way he regarded the measure, he equally disapproved of the alterations which had been made. They were conceived in a spirit hostile to the constitution, repugnant to the principles on which their Lordships passed the English Municipal Reform Bill three years ago, and pregnant with the seeds of discontent and bitter disappointment.

The Duke of *Wellington* said, that the noble and learned Lord had entered upon a discussion of the general principles of Government in respect of this bill, but he proposed to discuss the bill upon the principles of the bill itself, and he should make but one observation on what had been said by the noble and learned Lord, which was, that when the noble and learned Lord came to propose a Corporation Bill for another part of the kingdom, when he was sitting on that woolsack, and supported another on a subsequent occasion, he did not propose the one or support the other, on the principles which he had urged against the amendments proposed by his noble and learned Friend (Lord Lyndhurst). In the first case, the noble and learned Lord proposed a very large qualification, and in the other case, it was true the qualification was but small, but it was accompanied by the conditions of residence for a certain period, and the payment of rates, and, it was well known, that a house was not rated unless it was of a certain value. But then the noble and learned Lord came to the House and told their Lordships to follow the example of England, and to let every man have a vote who paid a tax, forgetting the example of his own measure now in existence in Scotland. But that which it was their Lordships' business to provide for, was a reform of the Municipal Corporations of Ireland, in which it was said, that great abuses had prevailed, and in which it was clear, that those views which the Legislature had formed many years ago, so far back as 1792, or 1793, had not been carried into execution. On these grounds it was, that he had always considered it desirable to make an alteration in these corporations, and he thought it right to avow fairly, as he had said before, that he considered that it would have been a better arrangement for Ireland to put an end to corporations altogether, and to have submitted the government of that country to the Sovereign of this great empire. He was now, however, willing to allow of Municipal Corporations in Ireland, consistent with the general constitution of the country, taking care that it should be such a reform as would give security to a large body of persons in that country, in whose hands power had been placed for some time past, but, in whose hands, he was sorry to say, it did not subsist at the present moment. At the same time, therefore, that they were framing and carrying this and other measures; he had thought it his duty to assist in devising such a scheme as would insure a fair distribution of power in that country, so as to give security to life and property, and to put an end to the perpetual disputes by which that country had been kept in a state of agitation. The noble and learned Lord and the noble Viscount opposite, had complained of the amount of the qualification for the suffrage proposed by his noble and learned Friend and both had characterised it as a deception. Now, he did not think it possible for any man to state in more clear language than his noble and learned Friend had done the principles upon which his amendments were framed. His noble and learned Friend stated, that the qualification was of the same amount as the suffrage which existed in Scotland. He stated also that certain deductions were to be made, and he stated the authority for those deductions, founded upon Acts of Parliament, upon the instructions of the Poor-law Commissioners, and the charges of judges to juries. It was impossible for any man to pretend that he was deceived as to the meaning of his noble and learned Friend, when he proposed a 10*l.* franchise. But the noble and learned Lord, and the noble Viscount thought this suffrage too high. They did not, however, propose a lower one, The noble Viscount said, that he would not propose to insert certain towns in the schedule of the bill, but he would leave it to the towns themselves to ask for a charter of incorporation under the provisions of the bill. He thought the noble Viscount did wisely in this. With regard to what the noble and learned Lord opposite, had stated, as to the effect of the English Municipal Bill, he must say, notwithstanding the panegyric passed by the noble and learned Lord, that he did not much admire these Municipal Corporations. It was very true that there was much more tranquillity—that was, the tranquillity produced by a certain watch and police, which maintained tranquillity in the streets at a very great expense. But that was not necessary in Ireland, nor was that proposed to be done either by the Bill itself or the amendments to it. He believed, however, that with respect to what was called social tranquillity, no such thing existed in those corporate towns, and that there was nothing but political squabbling and agitation from one year's end to another. He believed, that that social tranquillity which some time back, made England the most desirable place in the world in which a man could live, was fast disappearing, and he sadly feared that before long the increase of political agitation would put in hazard the capital which was in existence in this country. Then it appeared that there was another point embraced in the amendments, to which the noble Viscount and noble and learned Lord opposite both objected, and that was with reference to the permanency given to the existing Commissioners. He (the Duke of Wellington) did not exactly know to what the noble and learned Lord had alluded; it was certainly true, that the Commissioners for borough charities were to be preserved by the amendments which had been proposed by his noble and learned Friend (Lord Lyndhurst) and for his (the Duke of Wellington's) own part, he thought that those amendments were the very best amongst those proposed by his noble and learned Friend. He thought that a gross mistake had been committed, in the English Municipal Corporation Bill, on the subject of the borough charities; and he for one would certainly never have consented to leave those charities in the doubtful situation in which they were in fact left on the passing of that measure, if he had not believed that the noble and learned Lord opposite (Lord Brougham) would have been able, in the then following Session of Parliament, to propose a bill for the regulation and management of those corporation charities. That, however, had not been done, and since the Act passed, the English Municipal Corporation charities had been and still remained under the direction of the Court of Chancery, and as far as he had any knowledge on the matter from general report, he was sure that it was impossible for anything to be worse managed than were those charities. And if report spoke truth, the funds of those charities had in many instances, been applied to purposes of corruption both in municipal and Parliamentary elections. Such, at least, he had heard, had been the case. He therefore rejoiced that in this bill, it was otherwise provided, and that until arrangements were made for the future management of the corporate charities, they were to be kept in the hands of the parties who held them up to the present moment. This provision followed, he believed, in all respects, the exceptions made in the Scotch Municipal Reform Act. The noble Viscount opposite (Viscount Melbourne) had expressed his anxiety, that when this bill came back from another place with the alterations which might then be proposed, their Lordships would feel disposed to meet those alterations with a sincere desire to come to an agreement on the measure. He (the Duke of Wellington) had no doubt whatever but that their Lordships would meet the views and wishes that might be expressed by the other House with every sincere desire to concur in them, if it were possible to do so consistently with their Lordships' ideas of what was most fit and most desirable for the interests of Ireland. But he (the Duke of Wellington) confessed that he should be very glad to hear from the noble Viscount or his colleagues exerting their influence to conciliate the feelings of the other House in relation to this branch of the Legislature. He should be glad to see an instance of this being done. He considered that in all their reforms, care should be taken, (and he confessed that the noble and learned Lord opposite, Lord Brougham, in all the reforms that he had proposed had taken care) that no vexatious tyranny should be exercised upon any individual; that no person should be deprived of his property or his means of existence and living by the violence of a faction that might have for the time the upper hand. The noble and learned Lord had invariably taken care to introduce a proper clause for compensation, to provide for every man deprived of his office or means of living, in consequence of the reforms introduced by the noble and learned Lord. He must say, that the noble Viscount and her Majesty's Government ought to have done the same in this case; they ought to have taken care that in consequence of this reform no man should suffer or be destroyed by the success given on this occasion, to the adverse party in the state. He mentioned this, because there was scarce a day passed that did not bring him accounts from poor men and from others, stating that they would lose their offices under these arrangements, that they would be deprived of emoluments to which they had a right to look forward as rewards for their services, by the arrangements made under the Bill. He would state one instance with regard to which he believed, a noble Friend of his intended to move an amendment — a case which came to him yesterday. The Lord Mayor of Dublin, who had served within a month or two of the whole period of his office, would, on its completion, as the law now stood, be entitled to receive 1,000*l.* This remuneration he would lose by the operation of this Bill. But, besides this, having served the mayoralty, he would be now entitled to the emoluments of the office for one year as President of the Court of Conscience. This was again in remuneration for his services in the civic chair during the past year and all this he would lose by the operation of this bill. Now, it was well known that this House had no power to provide compensation, or to make any arrangement for satisfying claims of this kind and he must contend that it was incumbent on her Majesty's Government when they brought forward such measures as the present in another place, to consider well these claims, and to take care that these individuals should not become victims to these reforms, nor deprived of that remuneration to which they had every claim for services performed. He had troubled their Lordships much longer than he intended, but he could not hear what had been said by noble Lords opposite, without stating these few words, and declaring that he should firmly support the Bill, as it was now amended by his noble and learned Friend. It would be his duty to attend to any future proposals that might come up from another place, where he did hope some consideration would be manifested both for this House and for those who would still be the victims of the measure when passed into a law.

Lord *Brougham*, in explanation, said, that he had not given up his views that there ought to be no qualification. If the bill had not been altered, it contained a 5*l*. qualification. That qualification he (Lord Brougham), however, was not satisfied with; but for the sake of conciliation, he, in common with many other noble Lords near him, had given way. He, however, still claimed the benefits of the experience they had had of the English Corporation Bill, and the consequent extension of the same principle to Ireland. He went entirely the full length with the noble Duke, in partaking of any unpopularity that might follow an act of justice; and not only would he protect those rights, not only for the sake of justice and humanity, but, as a sincere Reformer, on grounds of policy, for he had always thought that the greatest mistake Reformers could commit, was to be unjust—for to be so, would be to raise a host of enemies to reform.

The Earl of *Wicklow* would not do justice to his own feelings, if he did not make a few observations on the subject under the consideration of their Lordships. He was glad, that noble Lords had agreed to reform the corporations of Ireland; but he could not agree with the noble Duke, that if this bill were passed in its present shape, it would allay agitation on this subject in that country. He feared the mode in which this bill was framed, would only increase agitation; because it would be considered as an offence and insult, that only eleven towns were to have corporations. The design of relief fell far short of what was expected; and therefore he could not help expressing his regret, that the noble Viscount should have abstained from bringing forward the subject of which he had given notice. The fact was, that instead of leaving his amendments to be proposed in another place, the noble Viscount ought to have brought them forward himself; and he must be allowed to say, that he did not think it either wise or prudent to allow the proper functions of their Lordships' House to be superseded in this manner. The noble Viscount ought to have proposed his own amendments; and if they were defeated, and afterwards adopted in another place, why then he would be justified in reproposing them in a more forcible way. He said this, because he wished the number of towns to which municipal corporations were granted to be increased; but while he entertained this wish, he never could consent to a low qualification—a low franchise would not, he was persuaded, be judicious in Ireland. It might, as an abstract principle, be good to remove all corporations from the Irish towns; but such a course, he thought, would not be desirable in practice, as they were institutions to which the people were attached by long habit. In fact, they could not deprive the towns of Ireland of corporations without danger; and this being his own opinion, he must say, he wished the noble Viscount had persevered in his intentions. There was one observation of the noble and learned Lord on which he wished to remark. The noble and learned Lord said, that the franchise now proposed, was a deception on both sides of the House; that one party were deceived in supposing it a 10*l*. qualification, and the other if they imagined it would be reduced to 7*l*. or 8*l*. Both parties, he said, were deceived, because it was neither the one nor the other; but in fact a 13*l*. franchise. He must deny that. If the qualification were to exceed 10*l*., certainly it should not have his assent; but the noble and learned Lord was in error on the subject, and he fell into this mistake by applying the circumstances of England to Ireland. The rating in the two countries would be widely different; and his belief was, that as the rating in Ireland would not exceed the value, as was the case in England, the qualification proposed by his noble and learned Friend would not, in fact, be more than a qualification of something between 8*l*. and 9*l*. It might be advantageous to the working of this bill, if their Lordships were at once to decide upon a 9*l*. franchise; but, as it might not be convenient to adopt that course now, he was prepared to support the bill as amended.

Several alterations were made, and clauses were added.

The bill to be passed on the following Monday.

HOUSE OF COMMONS,

Friday, July 27, 1838.

MINUTES.] Bills. Read a first time:—Joint Stock Banks; Transfer of Funds; War Office Act Amendment.

Petitions presented. By Captain ALSAGER, from Marylebone, against the Grant to the College of Maynooth.—By Major BRYAN, from Kilkenny, for the total Extinction of Tithes.—By Mr. L. BRUGES, from the Guardians of the Bath Poor-law Union, for the repeal of the 27th Section of the Poor-law.—By Captain DUNDAS, by Mr. MAUNSELL, and by Captain WOOD, from the Wesleyan Methodist Congregation of Great Queen-street, Lincoln's-inn-fields, and various other places, against encouraging Idolatry in India.

BANK OF IRELAND.] On the motion that the Order of the Day for a Committee of Supply be read,

Mr. *Hume* rose, to bring on the motion of which he had given notice as follows:—"That the exclusive privileges now enjoyed by the Bank of Ireland are injurious to the best interests of that country, and it is therefore most expedient and just to place, as soon as possible, the banks of Ireland on a footing of equality." He wished to know why Ireland, which so much wanted the benefit of capital, should be continued under such a system of monopoly any longer? He considered that they were now in a situation to throw out of view what had been the evils of joint-stock banks, or of the Bank of Ireland. They were now in a situation to call upon the Government, to say why the system of banking in Ireland should not now be put on the same footing as the banks in Scotland. He would call for the same justice to this country, only that he knew that the Bank of England had its monopoly for a certain time; but in the case of the Bank of Ireland it was different, for their charter of exclusiveness was now at an end, and there could be no reason for continuing so injurious a monopoly. Why was the capital of the Bank of Ireland, amounting to two millions and a half, lent to the Government at an interest of four per cent.? He wished to know whether the right hon. Gentleman had continued the former rate of interest, or whether since January any new arrangement had been made? Seeing the right hon. Gentleman might have borrowed the money at three per cent., if he was paying four or four and a half per cent., it was evident that was to the great injury of the public. He wished the Government to declare their intentions as to the future state of banking in Ireland, and he now begged to move his resolution.

Mr. *Ormsby Gore* in seconding the resolution, said, he hoped the Government, if they had it in contemplation to renew the charter of the Bank of Ireland, would recollect the circumstances under which that charter had been originally granted. It was antecedent to the Legislature of Ireland becoming part of that of England; and in consequence it was considered necessary that Ireland should, as England had, have a national bank. But since the Act of Union had passed, what necessity could be imagined for two national banks?

The *Chancellor of the Exchequer* said, both the mover and seconder of the amendment had fallen into error, in supposing that in moving the Committee, the object was to consider the evidence and frame a Report. On the contrary, he had stated that there were three distinct questions on which evidence was to be taken—the establishment of branch banks of England throughout England; the issues, by certain of these joint-stock banks of bank paper in substitution for their own; and, thirdly, this subject of the Bank of Ireland. The proceedings in the Committee had been strictly in accordance with the statements he then made. It had not inquired into matters which were the subject of investigation on previous occasions, and there was therefore no inconsistency in the course taken by the Committee, and the declaration which he had made. He should decline now entering into an argument on the case, because he could show to the House a sufficient reason for reserving that subject for future consideration. Nothing could be more indiscreet on his part, than to go into a premature discussion as to whether he agreed with, or dissented from, the proposition of the hon. Member, because it might prejudice the question to do so before the evidence which had been taken was in the hands of Members. But the hon. Gentleman had a right to see that the public interests were not affected or forestalled out of doors. The Report which had been brought up, although not yet in the hands of hon. Members, adverted to this subject, and recommended that a bill, in continuation of that of last Session, should be brought in, in such a manner as to give the House an unfettered discretion in the next Session to deal with the question as it should think fit. This was doing all that could be required in the present posture of affairs. Without going into the general proposition, he wished to say one word on a suggestion made by the hon. Member for Kilkenny. He not only had thrown out a supposition, the practicability of which he did not doubt, that an unrestricted freedom of competition in banking would be advantageous to the interests of Ireland; but he had thrown out a much larger proposition, that if it were not for the privilege of the Bank of England, a free competition of the banks of issue in this country was a matter which he contemplated as advantageous. This was a suggestion to which he should enter his dissent, reserving it as a matter for future consideration. There was another matter on which he also wished to make an observation. Undoubtedly there was on the advances made by the Bank of Ireland an amount of interest beyond the market rate of interest. But, at the same time, the Bank of Ireland acted differently by the public from the Bank of England, which charged 340*l.* per million on the management of the public debt, whilst the Bank of Ireland transacted this without any charge whatever. He would not go into the question further, than to assure the hon. Member, that if he looked minutely into this matter, which must be done next year, at any rate, he would find that so great a saving as he anticipated would not be effected. He was as anxious as any man to save 30,000*l.* or 40,000*l.*; but he was afraid that could not be done. He, however, thought the arrangement that had been made, such as deserved reconsideration. The hon. Member had observed, upon the effect of joint-stock banks, and had said that the inquiry that had been entered into with respect to them, and the publication of the evidence, had been adopted by the Government in a feeling of hostility towards them. Now, in answer to that, he begged to say that he had been actuated by no such feeling. The hon. Member had also said, that the publication of the evidence had left those banks in a state of feverish excitement. In that statement he could not agree with him, as it was his belief that the publication of the evidence had been attended with the best effect, as it had given to the banks, many of which were in their infancy, the benefit of the example and experience of the older banks. The Northern and Central, and some of the other banks, were in no way connected with this subject; and if they were, when he considered the pressure under which the public laboured, and the small number of failures that had taken place, he felt convinced that the principle of joint-stock banks was good, and would prove beneficial to the country. Under these circumstances, he trusted, the explanation he had given would be satisfactory, reserving to himself the right of proposing any legislation in the next Session that he might think fit.

Mr. *Warburton*, after the intimation just given by the right hon. the Chancellor of the Exchequer, as also the statements made on a former occasion, that in next Session of Parliament not only the affairs of the Bank of Ireland, but also the principles by which the affairs of the Bank of England were regulated, would be submitted to a committee and there undergo examination and discussion, thought it would be most advisable if his hon. Friend would not persevere in his motion. Some of those principles by which banking companies were regulated, particularly with respect to unrestricted circulation, had been the subject of discussion with men who were best informed upon the subject; and it being now decided, that a committee would sit for the purpose of deciding upon these and other points next Session, he trusted his hon. Friend would withdraw the motion.

Motion withdrawn.

Relations with Persia.] On the motion, that the Speaker leave the chair, for the House to go into a Committee of Supply,

Sir *S. Canning* would avail himself of the opportunity to make some further inquiries on a subject on which he had on a former occasion applied for an answer to the right hon. President of the Board of Control.¦ He hoped, that he might now be permitted to ask what was the nature and object of the expedition which had recently been sent from Bombay to Bushire. He asked this question because, from the Indian newspapers, there was every reason to believe, that it was connected with hostilities towards Persia. It had long been known, that an intimate connexion of a diplomatic kind existed between Persia and Russia. It was also known, that that connexion had of late assumed a closer character, for the siege of Herat was now directed by the Russian envoy, who happened to be an officer of engineers. He mentioned this to shew the importance of the subject, connected as it was with Persia on the one hand, and with Russia on the other. He understood, that it was notorious, that a connexion subsisted at present between Russia and Persia, and that it was even carried to the extent of being of an offensive and defensive nature. Now, the nature of the expedition recently sent from Bombay seemed to compromise our pacific relations with Persia, and if so with Russia. He therefore requested the noble Secretary to inform him, if he deemed it compatible with his public duty, first, whether the object of that expedition was such as would justify Persia in placing herself in a hostile relation towards us; and secondly, whether he had received any information as to the nature of the secret treaty between Russia and Persia.

Viscount *Palmerston* could only refer the right hon. Gentleman to the answer which he had already received from his right hon. Friend, the President of the Board of Control, that the expedition to Bushire had been sent out, not by this Government, but by the Governor-general of India. As to the secret treaty which the right hon. Gentleman conceived to exist between Russia and Persia, he had no information.

Sir *R. Peel* contended, that this was not an unnatural question to put to the noble Lord on going into a committee of supply. Surely, the House had a right to know in what position its foreign relations were placed. He, therefore, would ask the noble Lord whether the expedition had sailed to occupy any part of Persia. Had it gone with hostile intentions towards Persia, or by the solicitation of the Government of Persia? To say that it had gone by the authority of the Governor-general was no answer to the question. We ought to know whether it had sailed with hostile intentions against Persia.

Viscount *Palmerston* submitted, that the right hon. Baronet should have put that question to his right hon. Friend, the President of the Board of Control, when he stated, that the expedition had been sent in consequence of an order from the Governor-general of India.

Subject dropped.

BLOCKADE OF MEXICO.] Mr. Alderman *Thompson* inquired, whether there was any truth in the report which had obtained circulation, and caused considerable uneasiness in the city this afternoon, that the packets to and from Mexico had been interdicted by the French Government from carrying specie, the property of private individuals, while the blockade lasted?

Lord *Palmerston* said, the hon. Gentleman knew, that according to the strict doctrine of the law on blockade, the French Government would have been entitled to establish an absolute blockade, whereas they had made an exception in favour of the packets in and out between this country and Mexico. Two questions were put to the French Government, whether they would allow these packets to carry specie belonging to merchants; and next, whether they would allow them to carry specie belonging to the English Government, and required for the service? The French Government acceded to the latter part of the request, to allow the packets to carry specie belonging to the Government, but declined to allow them to take specie belonging to individuals. The permitting packets to pass at all, was an indulgence which we had no right to expect according to our own principles, and allowing packets to take specie belonging to Government, was another indulgence which they had no right to expect.

POOR LAW.] Mr. *G. Palmer* in rising to bring forward the subject of which he had given notice, begged to assure the noble Lord opposite that he was actuated by no vexatious feeling on the present occasion. But he felt that the constitutional rights and liberties of the people of this country had been invaded, and would be invaded more and more every day, by the Poor-law commissioners, acting under the noble Lord, unless some means were taken to place a proper check on their proceedings; and therefore, he felt it his duty to the public at large to bring this matter forward. At the same time he begged to observe, that in any remarks he should have to offer nothing was further from his intention than to make any reflections on the private character of the commissioners; he spoke only of their public conduct. He knew he was treading on delicate ground in bringing forward this matter, when so much excitement prevailed relative to the poor laws; but he would state explicitly, that whatever might have been his opinions of the Poor-law Amendment Act before it became the law of the land, he had now no desire to see it repealed; on the contrary, if its repeal were proposed, he should oppose it. But great amendments were necessary, in order to make it satisfactory to the people; for unless it were satisfactory it could not be effectual. In his opinion the erection of those vast buildings throughout the country would prove not only a most extravagant but a most useless expenditure of the public money. To say nothing of the cruelty to which their unfortunate inmates were subjected in the separation of parents from children, brother from sister, and husband from wife, if even they came to be used to the extent of their capacity, those workhouses would be found to be in every respect the pests of the country. He did not see why the poor of England should not have a protector as well as the unfortunate negroes, whose case had excited so much sympathy in this country. It appeared from a paragraph which he had read in a newspaper this morning, that in consequence of ordering roast beef and plum pudding on the day of the coronation to the poor of a certain workhouse, contrary to the instructions of the Poor-law commissioners, the master had been condemned to one month's imprisonment. The certain effect of the uncontrolled dictatorial powers with which the commissioners were invested would be to infringe upon the rights and liberties of every individual in the community, within and out of that House. He had felt considerable alarm two or three months ago on reading the following statement which appeared at the time in the public papers:—

> "An order has just been issued by the Poor-law commissioners which it is understood will be forwarded to all the unions in England, directing the guardians to appoint within a specified time persons to perform the duties enumerated in the first schedule below, such persons to be paid by an annual salary, and to find two sureties for the due performance of their duties. The duties to be performed by one person are to be specified by the Poor-law commissioners according to circumstances, and every person appointed to perform the duties stated in the first schedule shall undertake in case he be nominated and elected by the Inhabitants in vestry of any parish or place within his district, and appointed thereto by any two justices of the peace to perform without any additional remuneration any of the duties enumerated in the second schedule, or any other duties imposed by law upon overseers of the poor, and not enumerated in the first schedule; and every person appointed under the order shall have power to execute the duties assigned to him in like manner, and to all intents and purposes as an ordinary overseer of the poor; and any board of guardians may at any time suspend the performance of the duties of any assistant-overseer appointed in pursuance of the order, until such suspension be confirmed or taken off by the Poor-law commissioners; and if the suspension be confirmed by the Poor-law commissioners, but not otherwise, the remuneration of such assistant-overseer and his continuance in office shall, if the commissioners so direct, cease from the day of such suspension. No person shall be chosen to perform any of the duties unless he will undertake to devote the whole of his time to the employment, not following any trade, profession, or any other occupation whatever, except he be already a paid officer of the union, and except he be elected to perform the duties stated in the second schedule."

Perhaps he was not entitled to call that an order of the commissioners, or even a proposed order; but he was entitled to say, that he himself had seen it in the minute-books in Somerset-house. He had no doubt every one would agree with him in thinking it a most objectionable paper; indeed, he hardly thought the noble Lord himself would be found to approve of it. In the first instance, it attempted to take away from the parochial authorities every description of management of their own affairs; even the parish books were to be placed in the hands of a hired servant of the Commissioners, liable to be dismissed at a moment's notice. Then, in the most underhand manner, it interfered with that particular clause of the Reform Bill, which provided for the making out of the lists of voters for Members to serve in Parliament. He would ask, whether the centralization principle was not clearly manifested in every part of the last debate on the question of the Poor-law for Ireland; and whether that ought not to convince the people that, if they were not on their guard, they would speedily have but little left worth the caring for. What was the noble Lord's intention with respect to the police? He had heard, that it was intended to place the new police of the city of London under the authority of the noble Secretary for the Home Department. The establishment of a rural police, likewise, at the beck of the noble Lord, would, he supposed, soon follow, and then the enthralment of the country would be complete. He should now proceed more immediately to the consideration of the question berore the House. Early in March he had first given notice of the motion which he was about to move, and he had then no reason to think, that the papers he sought would have been refused. When he made the motion, however, the noble Lord objected to the production of the letter, stating, that it was not a final order determined upon by the Poor-law commissioners, but had only, as he thought the noble Lord said, been laid by them before some one or two persons in order to have the advice of those persons upon it; and then the noble Lord went on to suppose a case, and said, that if he, as Secretary of State, had thought proper to write a letter to his under-secretary, and desire him to make any suggestions upon it which might occur to him, the House of Commons would not think of calling for the production of a paper written under such circumstances. Be that as it might, this was his answer, and the noble Lord had thus the full advantage of his supposed case. Shortly after this, a public paper, friendly to the Government, said, that he had greatly mistaken the fact, in saying, that this letter had been sent through the country generally, for that the truth was, it had only been sent to Poole and (he thought) two other places. He wrote to Poole and received, through the medium of a noble Member of that House, the following answer from Mr. Parr, the clerk of the Poole union:—

> "My Lord,—I much regret, that I have unavoidably been prevented answering your Lordship's favour with Mr. Palmer's enclosed before this. The order, with schedules Nos. 1 and 2, for appointing an assistant-overseer, was received from the Poor-law Commissioners on the 13th of January last. The Commissioners sent it to the guardians, and stated it to be an order, they would be prepared to sanction, if the guardians approved of it, and that I, as the clerk, should be instructed to fill it up, and return it to the Commissioners. The guardians were unanimous in their opinion, that the powers given to the assistant-overseer by such order ought not to have been given to any one individual, and the Commissioners were informed, that the guardians disapproved of such order. Subsequently—namely, on the 8th of February, another order was issued to appoint a collector of poor-rates, &c.
>
> "Poole, April 24, 1838. "ROBERT H. PARR.
>
> "To the right hon. Lord Ashley, M.P,"

Of the effect of the circular of the 8th of February he could only judge from a document which he had seen, and which he found had been sent to the Chorlton-on-Medlock Union; and on speaking on this subject, he did feel, that the House ought to understand what kind of control they had over the Poor-law commissioners. But from the act of Parliament, if he understood it correctly, it appeared, that every order from the board of Poor-law commissioners ought to be understood as a general order, and was to be laid upon the Table of that House, in order, that such steps might be taken as should be thought necessary if it was disapproved. But he was told, at the office of the board at Somerset-house, that as long as the board only issued one or two at a time, they were not to be considered to be general orders; but not to dwell upon this part of the subject, he must express his hope, that the noble Lord would not on that occasion take shelter in pretexts of political expediency or diplomatic secrecy, and refuse the production of the letter for which he was about to move. The hon. Member concluded by moving "for the production of a copy of a letter dated the 8th of January, 1838, addressed by the Poor-law commissioners to the assistant commissioners, with which certain proposed orders for the appointment of assistant overseers were sent."

Lord *J. Russell* could not object to the motion of the hon. Member on grounds of state necessity, nor that the letter, if produced, would cause any great revelation of state secrets, but he objected to the production of this letter for the same reasons as he had stated when the matter was first mentioned to him. More than one of the Poor-law commissioners had stated to him that they had directed some one in the office of the board to draw up a letter to be sent to the guardians of some of the Poor-law unions, and that such a letter was sent to two or three of the assistant-commissioners, who were requested to say whether the steps proposed in it would be useful or not. But the commissioners had themselves seen, upon considering the letter as drawn up, that there were two or three points in it which it would not be desirable should be carried into effect. But on the 12th of May they did agree to a letter amended from the former, to be sent as before. Now, his objection to producing documents of this nature, was this—that when persons like the Poor-law commissioners were in communciation with their subordinate officers, that House had not a right to call for the correspondence between them until the whole matter was finally settled. There was the less reason why he should in this case consent to the production of the letter, as he believed, that by some means or other it had appeared in some one of the newspapers. On the ground, then, that the production of this document would establish a bad and inconvenient precedent, he must refuse his assent to the motion.

Motion negatived.

SUPPLY—MUSEUM.] The House went into Committee of Supply.

Sir *R. Peel*, in rising to propose the vote for the support of the British Museum, could not help expressing his persuasion that the House must observe with great pleasure the increasing interest felt in this great institution, and he could not but think that the hon. Members composing the Commit ee, among whom was the hon. Member for Kilkenny, would agree with him that the Committee enjoyed a most agreeable sight, when quite unexpectedly they passed through the rooms of the Museum, and remarked the great numbers of persons who were taking a calm and rational delight in the various objects of curiosity presented in the Museum. The right hon. Baronet moved that a sum of 27,469*l.* be granted to provide for the expenses of the British Museum.

Mr. *Hume* fully concurred with the right hon. Baronet in the account he had given of the interesting spectacle the committee had witnessed in their visit to the British Museum, and contended, that the principle of opening public institutions and buildings for the free acess on one day in the week or more ought to be carried further than at present. He had reason to think, that the trustees of various provincial museums were about opening them to the public generally, and he did not see why the same thing should not be practised generally. He could not refrain from mentioning the gratification with which he observed the material increase which had taken place in the number of persons frequenting the reading-room of the British Museum. In the year 1825 the number of readers was 3,800, but last year they amounted to no fewer than 69,913. He expected the greatest possible public advantage from this free use of the library. With regard to the other part of the Museum, he did think, that after service on Sundays it might be set open for the rational enjoyment of the people with very great advantage.

The *Chancellor of the Exchequer* admitted the importance of acquiring the two collections that had been alluded to, and he thought it highly desirable to keep the public opinion in favour of grants of this kind. He had not any fears of opposition from either side of the House when votes for objects of this kind were concerned, for he knew that the House would always be ready to give the most liberal assistance to the Government in carrying such objects into effect. He thought, however, that there was one inconvenience in prospective discussions of this kind for which a strong opinion was expressed by the House in favour of those collections—it had the effect of raising the market against them in their capacity of purchasers. He had the highest respect for the names attached to the memorial, and should give the subject the consideration which it deserved.

Sir *R. Peel* said, with respect to the time of admission the Committee had made very liberal arrangements. They had opened the Museum on Easter and Whitsun weeks, and had given the public great additional facilities in other respects. The Museum was at present open to the public during three days in each week. Now it should be recollected, that there were two objects to be kept in view; one was, the admission of the public, and the other, to give scientific persons the opportunity of improving themselves, free from the bustle which was inseparable from a crowded attendance. For this latter object two days were set apart, namely, Tuesday and Thursday, and the remaining day, Saturday, was set apart for the purposes of cleaning. With respect to an additional day, and to appointing admission on Sundays, he had a strong opinion on that subject. He would not disturb the unanimity that prevailed by expressing that opinion; but he thought as one reason against that proposal, that the officers of the establishment required that day for rest. He considered, that the interest taken by the humbler classes of the people in collections of this kind was not only calculated to promote the moral and intellectual improvement of the people, but to increase and strengthen their attachment to their country. The right hon. Baronet warmly concurred in the importance of securing to the public the two collections that had been alluded to, for if the opportunity was lost it might never occur again. He hoped, also, that the right hon. Gentleman opposite (the Chancellor of the Exchequer) would take into consideration the state of the buildings, and see, that it would be the best economy to bring them to a state of completion as soon as possible.

Vote agreed to.

SUPPLY—THE POLES.] On the question, that 10,000*l.* be granted to enable her Majesty to relieve the distressed Poles now in this country,

Viscount *Sandon* wished to say a few words as to the amount of this grant. It would be remembered, that in 1836 it was first agreed to vote a sum of 10,000*l.* for the relief of the Poles. At that time the number in this country was somewhere about 400, and it was then intimated by the Chancellor of the Exchequer, that the relief should be granted only to such Poles as were in the country at the time. Since that time the number of Poles in the country had, from various causes, increased —a considerable portion had been let loose by a neighbouring country on our shore, so that there were now 200 of those unfortunate individuals in the country who were totally excluded from Parliamentary relief. The frequent appeals to that charity, which, he was happy to say, was never inattentive, proved this, and all the idle amusement of the day had been called into requisition to assist in their relief. He thought it was unworthy of our generosity to leave this small number excluded from the benefits of the grant, which was not of sufficient amount to invite increased immigration. It was a remarkable fact, that in this, the dearest country in Europe, the grant had always been less than in France, at least to every rank above that of a private soldier. In Russia and Austria, also, the governments had been more liberal than ours. In fact, the English scale was the lowest in Europe. While England gave 10,000*l.*, what had France done? To be sure, the Poles had perhaps, greater claims on France. The French Government was, he believed, more responsible than ours—he hoped ours had no share in the responsibility—for the revolution which had brought ruin on these unhappy men, and driven them exiles from their native land. But France had given 100,000*l.*—once 160,000*l.*, but never less than 100,000*l.*, and even the small canton of Berne had given 4,000*l.* He maintained, that our Government had not come forward in the manner becoming our character and resources. He knew, that the presence of destitute strangers was a consequence and disadvantage of our position on the map; but that position had also its advantages—such as our being the outport of Transatlantic communication, and the trade and commerce which that position gave us. While we enjoyed those advantages, we ought not to grumble at the inconveniences, or scruple to assist those whom misfortune had driven to our shores. We ought to recollect, also, how much we owed to the fact of having been at different periods the refuge of strangers who had become the victims of their opinions. In early times the Flemings introduced manufactures, and at a later period we had derived considerable advantage from the persecuted French, whom the edict of Nantes drove from their native country. In fact, the persecuted of all nations had, at different times, come to us for protection, and enriched us by their industry. The particular facts of the case he was now urging on the right hon. the Chancellor of the Exchequer were these—200 men were now living from day to day on the precarious relief afforded by public charity; and it was with deep regret he saw many honourable and high-minded men reduced to such a dependence for subsistence. He did not like to see senators, members of the Diet, men distinguished in the annals of their native country for their conduct in the Council or in the field, reduced to such a state as to become the subjects of puffing advertisements, and obliged to resort to the voluntary services of foreign singers for existence. He did not mean to cast any blame on those persons who undertook the labour of the exhibitions to which he alluded; they, he felt convinced, were actuated by none but the highest and purest motives, but he thought that such means must, to high-minded men, be a most painful mode of existence. He would, therefore, entreat his right hon.

Friend to do something for these poor men. Suppose he only added a sum of only half the amount now proposed, which he thought would not be enough to induce any others to come over for shares. It should be recollected, that in the French Chambers ministers had formerly stated their intention to send no more of those unhappy men to our shores. He hoped, therefore, that nothing would induce his right hon. Friend to withhold the small relief he had asked for from any apprehension of fresh arrivals—a thing which he could render ineffectual by stipulating that no Pole should receive relief out of the original grant who had not resided above a year in this country. He was in nowise personally interested in the Polish cause; he was merely moved by the fate of two hundred unhappy men, who had been driven from their own country, deprived of all the comforts of life, and cast helpless and destitute on our shores without any help save the casual charity of the day. They had made every effort to obtain food by their labour; on railroads and public works, Colonels and others of high rank might be found working as common labourers, but being strangers, speaking a strange language, and having few facilities of obtaining employment, the great majority were left to wander starving about the streets. In the police reports accounts would be found of Poles taken in the act of sleeping under our porticos and at our hall doors and such other places of shelter as chance threw in their way. The state of our finances might be urged as a reason for withholding present relief, but he did not think the right hon. Gentleman would give the national distress as a reason for refusing a grant of 5,000*l.* for so benevolent a purpose. Although our finances were not in the most flourishing state, grants were made for the support of the British Museum, and for other purposes connected with art and science; and while we were indulging in these luxuries, wholesome and beneficial luxuries he would admit, he did not think we should refrain from the higher luxury of assisting those unfortunate men in their present state of destitution. There was only one point more to which he would allude. Attempts had been made to prejudice the public mind against the Poles, by the fact of twenty or thirty misguided men having published placards and interfered at a late election. He did not mean to vindicate the conduct of those individuals, which all must concur in thinking highly improper; but surely that was no reason why 200 men, totally unconnected with that conduct, should be left to perish. He trusted, that however great and just might have been the irritation caused by this foolish conduct, that time sufficient had elapsed since its occurrence to erase it completely from the public mind. Under all these circumstances he trusted the right hon. Gentleman would consent to the enlargement of the grant.

Mr. *O'Connell* said, that if the noble Lord had proposed a distinct vote, he (Mr. O'Connell) should havé been exceedingly anxious to second him, but as that could not be done consistently with the usages of the House, he must only content himself with pressing on the Chancellor of the Exchequer to accede o the enlargement of the vote. The right hon. Gentleman, of course, ought to be as chary of the public money as of that of individuals; but he could tell the right hon. Gentleman, that there was no portion of that public which would not hear of the increased grant with gladness. They were assembled there to represent every grade and variety of public opinion, but he believed there was no man on either side unrestrained by official duty who would be afraid to answer to his constituents for voting in favour of this grant. The only objection that could be urged to the proposed increase was, that it would be creating an inconvenient precedent by encouraging exiles for political opinions. Why the last century afforded several prece- of that kind, and was Poland—the land to which the poet alluded in the bautiful lines—

> "Sarmatia fell unwept without a crime."

and which lines, although poetical, were strictly true—Poland that fell a victim to the crimes and perfidy of others—was she to be excluded from relief? Neither need they look to the past as affording motives for making this grant. The future was pregnant with prospects which made it expedient that we should have Poland and the Poles on our side. From Gibraltar to the Persian Gulf events were approaching which made the alliance of a brave people a thing not to be despised. If we now refused this paltry sum of 5,000*l.*, we should lose all the gratitude we had acquired by former grants. He did not wish to enter further into the matter, or to trench on disputable points. The present was not a disputable point—it was one that called for the exercise of one of our highest virtues—that of charity; and, if the grant did form a precedent, it was one of wisdom and generosity, and one that would be hailed with acclaim in every corner of the British empire.

The *Chancellor of the Exchequer* said, that there never was a more painful duty imposed on an individual Member, than that of bringing back the House from the impulses of generosity and compassion to the considerations of right and of justice. He had, however, one cause for rejoicing, and that was, that he was not now called on to defend the withholding of the grant altogether. The question, he was happy to say, was not one of principle but of degree; and he was also rejoiced to say, that he now, for the fifth time, had had the honour of proposing the grant. Now, the point to which he wished to call the attention of the House, and which had been alluded to by his noble Friend, was, that when the grant was first solicited from Government the gentlemen who consulted Earl Spencer on the subject undertook that the extent of relief required should be for the Poles at that period actually in the country. They not only consented to this stipulation, but stated their determination themselves to resist any attempt at infraction. He did not wish to press this point more than it deserved; but he had a right to make the House acquainted with facts—facts which an hon. Gentleman present could attest. This was in 1834. Afterwards, in consequence of the events at Cracow, new calamities overtook the Poles, and a new class became exiles from their native land, and although these formed no part in the stipulation, the Government overlooked the fact and relieved them. The vote had not been decreased from its original amount, notwithstanding that the natural course of things must have greatly diminished the number of claimants; but the balance had been applied to the relief of the Cracow exiles. Among those who wished to leave the country, and who came recommended by the association, were given the entire sum allowed for one year's súbsistence to assist them in emigration. From emigration and other causes the original number had greatly decreased. It was at first 485, but, in 1835, 116 emigrated. This, of course, caused a great reduction, and the whole balance was applied to the assistance of the rest. He did not wish to take any merit to himself in this transaction, he was merely the distributor of the national benevolence; but he defied any man to say, that he had not carried into effect the declaration of Parliament; or that, if he had committed any fault, it was on the side of generosity. What was it they were now called upon to do? Were they prepared to commence an interminable system of grants? No matter what brought political exiles here. Were they to pledge the country to provide for their wants? It was but justice, however, to say, that the unfortunate men deserved our warmest sympathy. No men could have acted with more prudence, more honesty, or more resignation than they had since their arrival in this country. Indeed, their valour in the field was only exceeded by their resignation under misfortunes. Therefore, it was not any want of sympathy that induced him to oppose the increase; but, because he knew, that if in 1838 they went beyond the principle originally proposed, they would not know where to stop. He would remind the House, too, of what had been the course with men who had much stronger claims on us than the Poles—he meant the Spanish exiles, the companions in arms of the Duke of Wellington, and who had fought side by side with our own soldiers. The grant for their relief, which in 1833 was 12,000*l*., in 1837 was only 3,000*l*.; in this case, although the same cause had been in operation, he did not call for any reduction, but merely opposed increasing it to 15,000*l*. There had been one observation made in passing, to which he would only give a passing reply. Allusion was made to the political objects to be served in assisting the Poles. He could only say, that he disclaimed any such feeling, and that whether the grant was 10,000*l*. or a greater amount, he wished it to be understood as given from motives of generosity, and without a view to any political consequences whatever. In conclusion, he must say that, having consulted his colleagues on the subject, it was his painful duty to rest contented with the grant as it now stood.

Sir *Stratford Canning* observed, that as the French Government had given positive assurances that there should be no further attempts to send the Poles out of that country, he thought the present was an occasion on which the national benevolence might be safely exercised. He must express his concurrence in the sentiments of his noble Friend, and his satisfaction at hearing the tribute to the good conduct of the Poles, which the right hon. the Chancellor of the Exchequer had so well expressed.

Mr. *Briscoe* mourned for the decision to which the right hon. Gentleman had come, because he thought the reputation of the country was involved in it. He had listened with the utmost attention to the statement of the right hon. Gentleman, and he heard nothing in it to justify our withholding relief from those who were perishing in our streets. This was no party or political question, but one of need and destitution—a destitution of the extent of which the House was most probably not aware. He had taken some pains to ascertain the facts, and he found the actual number excluded from participation in the grant to be 189. Of these seventeen were field officers—126 officers, and thirty-six soldiers, and ten the wives and children of soldiers. This was the exact number of persons who were depending on the casual bounty of the public, and of these some had been many days without food. The increase asked was a mere trifle. The apprehension of an increase of the grant being likely to induce more Poles to come to this country was groundless, more especially after the declaration of the French Minister, when he stated, that it was not the intention of the present government to send more Poles into England. This country, therefore, might, without danger, give free scope to its generosity. It was, in his opinion, a mistaken economy to refuse so small an addition to the grant. He would rather see the 5,000*l.* deducted from the expense of the coronation than refused on such an occasion as the present. We ought not to suffer those brave and much-enduring men, who fled from tyranny to our shores, to find there not an asylum, but a grave.

Mr. *Dennison* thought, that when the cause in which these men suffered, was considered—when the depth of their misery and the resignation with which they endured it was borne in mind—there could be no stronger grounds for a liberal grant of money than those which their claims possessed upon the sympathies of a generous public. He trusted, that the finances of the country were not so low as to render a refusal of the increase to this grant necessary. He hoped the Chancellor of the Exchequer would see the propriety of acceding to the proposition.

Sir *Francis Burdett* would not do justice to his own feelings, if he did not cordially support the increase of this grant. He felt, that he could add nothing in favour of the proposition to the excellent observations made by the hon. and learned Member for Dublin, of whom it would always give him greater pleasure to speak in terms of praise than censure. In the injury that had been done to the high-minded and generous Poles, a blow had been stricken at all civilised Europe. They should not forget the hint which had been thrown out by the hon. and learned Member for Dublin, namely, that it was an ennobling and a stirring sight—a sight calculated to excite a worthy emulation in every generous mind—to see these brave men still clinging to the cause of their prostrate country, even in her utmost desolation. A time might arrive when it might be necessary for us to adopt a course in which the co-operation of these brave men might be desirable. With respect to the increase to the grant, he was sure that the House would be unanimous in consenting to it.

Sir *R. Inglis* said, that when he considered the state of the Poles—some of them refugees in England, some exiles in Siberia, and some of them strangers in their own home—he was happy to think, that England was no party to that revolt which reduced them to that condition, and was in no degree chargeable with any share in the injustice which blotted Poland as a country out of the map of Europe. England ought to be the asylum of the oppressed of every nation, and she would be found so. When the smallness of the sum was taken into consideration, and when he saw that all those who differed so widely upon other subjects were almost unanimous upon this, he did not think the additional grant would be refused. It was called for, not only by humanity, but by justice, being only a tardy discharge of the debt due by us for the assistance which Poland formerly rendered to England in 1650. Even though the grant should form a precedent. he did not think there would be any objection to its future adoption.

The *Chancellor of the Exchequer* admitted, that the sympathy of the House was in favour of the vote, and it was a sympathy which he would, by no means, endeavour to suppress. What he feared, however, in yielding to the influence of such sympathy was, that there might be in future, an indefinite increase made in votes of this nature. With respect to the opinion of his hon. Friend, the Member for Middlesex, the hon. Gentleman should remember, that he himself, when this question was, on a former occasion, brought forward by Lord Dudley Stuart, objected to too great an outlay of public money. He would by no means say anything calculated to prejudice the cause of the Polish refugees; and he felt, that the general unanimity of the House was a matter for the serious consideration of the public. In pursuing the course which he did pursue, he was but discharging an arduous and painful duty. He hoped the House would give him credit for the motives with which he acted, for he felt, in his position, that in the disposal of the public money, he ought not to be actuated by any feeling as to the popularity of the claim; but whether the disposal of it in a particular way was or was not for the benefit of the public.

Viscount *Sandon* said, that after what had fallen from the Chancellor of the Exchequer, and the promise given that the matter should be taken into consideration, he should withdraw his amendment.

Mr. *T. Attwood* represented a large community, and was sure, that not a pauper in Birmingham would oppose the increase of the grant.

Original vote agreed to.

SUPPLY — THE CHURCH ABROAD.] On the motion that 11,790*l.* 18*s.* 6*d.* be granted for the Ecclesiastical Establishment in the North American provinces,

Mr. *Pakington* objected to the amount, as totally insufficient for its purpose. If the revenue of the late Bishop were divided, it would allow 1,500*l.* for each Bishop (Montreal and Quebec), and this arrangement would, he had no doubt, give general satisfaction to the Canadian people. Canada had strong claims upon England; and he hoped, that in the most important of all concerns, that colony would not be neglected. They had encouraged English, Scotch, and Irish subjects to emigrate to the forests of Canada, and they should take care to provide them with that greatest of blessings—Christian instruction. The present mode of payment superinduced a system of pluralities which, he believed, Members at each side of the House were equally opposed to; but which were inseparable from this mode of payment. Even the Clergy reserves had not been directed to the purposes for which they were intended, or at least they had not been made available to that purpose. The day might come, when Canada would be enabled to support her own Church; but so long as England continued to support the Canadian Church, she ought to do so in a manner that would meet the present necessities of that Church. The sum they were now called upon to vote, was quite insufficient; and though he would not move an amendment, he had felt himself called upon to deliver his opinions to the House. He regretted, that a person more competent had not taken up the matter; but so long as he was in Parliament, he should take care of the interests of the Church, whether as a leader or a follower.

Viscount *Howick* said the manner in which the clergy of Canada were formerly paid was founded in error. They had received their remuneration from the sum which was voted for the army extraordinary expenses, and this was of course without the cognizance of Parliament. The Government had long given attention to the subject. Her Majesty's Government, considering the state of matters in Canada, did not think it expedient that this country should pay for the religious instruction of the inhabitants of that colony. Canada was untaxed—it was a rich and flourishing community—and therefore it was unfair that the heavily taxed people of England should bear such a burthen as the hon. Member's motion would impose on them. There was likewise an arrangement entered into with the colony in the time of Lord Goderich's Government, that no further burthen of that description should be laid on this country. Besides, all the efforts to impose the Established Church on the inhabitants of that country would be found ineffective. He denied the accuracy of the observation made by the hon. Gentleman, that a great number of emigrants had gone out to the Canadas on the faith of an understanding that the Government would act as he had stated in regard to the Established Church. Under these circumstances, he thought it better to refrain from any discussion on the subject.

Mr. *Wallace* said, the Church of England had been the curse of Ireland, and would be the curse of the Canadas if established there.

Mr. *Hume* said, he had never heard so much nonsense as he did in the speech of the hon. Member who mooted the question on the subject of destitution in Canada. He considered the existence of a sinecure church a disgrace to Canada as well as it was to England; and he was of opinion that its existence, if affirmed would lead to results similar to those which had taken place in Ireland. He should oppose the motion.

Mr. *Goulburn* said, that the hon. Member for Kilkenny was not right in stating that religious destitution did not exist in Canada. Every thing that transpired on the subject proved the contrary. He (Mr. Goulburn) thought, that there was a solemn obligation on the country to see a good and sufficient religious instruction was provided for her colonies: and where religious establishments were in their infancy, we were bound to succour and uphold them until they attained strength and maturity.

Mr. *Ellis* deprecated the observation made use of by the hon. Member for Greenock in regard to the Church of England. He also denied the truth of the assertion of the hon. Member for Kilkenny, that there was no spiritual destitution in Canada. The speech of the noble Lord (Howick) had given him much pain, inasmuch as it appeared to be of a piece with his recent remarks, equally objectionable, on another subject in which the Established Church was involved. It was a matter of serious regret to hear, day after day, a Minister of the Crown objecting to keep up that Church which he was sworn by virtue of his office to defend. The hon. Member concluded by supporting the motion.

Mr. *Hobhouse* said, it was highly improper and impolitic to try to establish a religion in Canada, in opposition to and contrary to the wishes and feelings of the people. He wished the Church of England to be maintained, and properly maintained, wherever people belonging to that sect were to be found in any country on the face of the globe; but were the people of England to be taxed, on the ground of there being spiritual destitution in Canada, when it was well known that the sum already afforded was fully adequate for the wants of the people of that country? He had paid some consideration to the subject, and had consulted books written upon it, and he was satisfied that the funds already afforded were sufficiently adequate for the wants of the Church of England in Canada. It might be very well for the hon. Gentleman opposite to wish to have more bishops, but for his own part he should prefer that the number should be fewer. It was a part of the principle of hon. Gentlemen, however, on the other (the Opposition) side of the House to wish to support the existing system, and to extend it; and the reason was evident, for wherever they created a new incumbency they created a Protestant advocate in the person of the incumbent. Their object was to increase ecclesiastical patronage, in order to increase and strengthen their own political views.

Sir *R. Inglis* was sorry to hear the hon. Gentleman who had just sat down denominate the members of the Established Church as a sect, The great objection of his hon. Friend the Member for Droitwich (Mr. Pakington), with respect to this grant, was, not that it had been increased but diminished; yet the hon. Member for Rochester (Mr. Hobhouse) complained that too much encouragement had been already given to the Established Church in Canada. He would contend that in a colony, the people of which were of British origin, who spoke the same language, who had had imported to them the same laws, no link in the chain of connection was so strong as that which bound them to the same religion. He was perfectly ready to admit, that when a colony had arrived at that state of maturity, that she could support her Church she ought to do so, but that time as yet, had not arrived for Canada.

Mr. *O'Connell* said, that the part of the vote to which he had the strongest objection was that in which it was proposed to pay 1,000*l.* to the Catholic bishop of Quebec, and 75*l.* to the Catholic bishop of Newfoundland. He did not know the bishop who was to receive the 1,000*l.*, but he had the pleasure of being acquainted with the Bishop of Newfoundland, and a more pious, zealous, hard-working bishop he did not know than this seventy-pound man. The bishop who was to get the

1,000*l.* might be a very exemplary character, and a very worthy man, but he doubted much whether, in the performance of his duties, he excelled the poorly paid Bishop of Newfoundland in the ratio in which the allowance of the one exceeded that of the other. The hon. Baronet (Sir R. Inglis) was always very indignant at talking of the Church as a sect; but all his ire was exhausted in condemnation of those who were guilty of such profanity, for let there be any proposal of granting money for the support of that Church, and instantly the good humoured countenance of the hon. Baronet assumed an additional smile of hilarity. And yet he (Mr. O'Connell) thought, that nothing tended more to defile religion itself, or to check the progress of the different creeds into which it was divided, than a course and grovelling cupidity. What was it that caused and palliated the Reformation but the enormous wealth and, as an inevitable consequence, the abused power of the Church? Indeed the violence of the overthrow of that Church and the rapid diffusion of the reformed religion bore in some districts a proportion mathematically corresponding to the number of acres which it possessed; and from that moment to the present, religion had not been better for the endowment of churches. Where all religions were on an equality, the professors of one creed respected those of another; but the supremacy of any one Church had ever, and must ever, create a reaction of anger and hatred on the part of those who differed from it. And what was the ground for preference? An Act of Parliament. He confessed, that he had not always the most profound respect for Acts of Parliament in civil affairs. Would any hon. Member contend that an Act of Parliament could sanction a wrong? Besides, he did not wish to palm on the hon. Gentlemen opposite his authority for any doctrine which he might advance; but he would just remind them, that a right rev. Prelate in what was significantly called "another place," had announced his determination to resist an Act of Parliament, not merely by passive means, but with all the excommunicating powers which belonged to him. And why should not a humble layman like himself share in the piety of the sanctified Bishop of Exeter. Well, if the hon. Gentleman opposite liked, he was wrong. 'Twas not the Bishop of Exeter's speech, that he saw in the newspapers. 'Twas a libel that was published on that most meek and gentle Prelate, on him who was, above all, so little addicted to calumny. Well, but to return to the force of an Act of Parliament. He, for one, could not acknowledge its infallibility either in civil or religious matters, as it had not even the merit of admitting the right to exercise private judgment. The true way to deal with the religious in Canada was to have the Protestants pay their own clergy, the followers of John Knox to maintain the Presbyterian faith, and if the Catholics did not uphold those who were the ministers of their creed he was quite contented to have the State abandon them to starvation.

Viscount *Sandon* said, that the hon. and learned Gentleman's speech was quite in keeping with the monstrous invectives which he had, on all occasions, lately delivered against the Established Church. The hon. and learned Gentleman had dwelt much on his abhorrence of any connection between the State and the Established Church; but his sentiments were not shared by those who professed his religion! for he defied him to show an instance in which the Catholics had the power and refused to endow their Church. Like the other dissenters, they were against the establishment in England, where the members of the Church preponderated; but all alike, when they migrated to the colonies, claimed the support of the State for their different forms of worship. Then as to the demands of the clergy for money, being men, they must live, and they could not live without those means which the State afforded, in consideration of their devoting their lives to the service of religion. The hon. and learned Gentleman said, he had no respect for Acts of Parliament. He was not at all astonished at the ease with which he made such a declaration. He was used to such language; and he not only broke Acts of Parliament himself but he taught others to break them. He had not read the report of the speech of the Bishop of Exeter, so that he could not say how far circumstances might justify his declaration, that he would resist the law; but he was prepared to bow to that law which endowed a particular Church, and which must be taken as the declaration of the nation, through its representatives, in favour of that religion.

Mr. *O'Connell* said, the noble Lord had made a personal attack on him, which he, however, was quite prepared to answer in every point. The noble Lord was mistaken if he supposed, that he at all denied, that the Catholics abused wealth and power when their Church possessed both; and it was for the very reason that they did so, that he would intrust them with neither the one nor the other. He was as little inclined to deny, that there were some Catholic hypocrites; and it was quite possible, that a Catholic might be found who was bigot enough to carry a wooden Bible on the dickey of his carriage (there being no one within), and through his excessive Catholic ardour thus to canvass for votes. They were all of them but men. Others might wish to endow the Catholic Church, but unless the noble Lord quoted *The Standard*, he could not accuse him of having ever expressed an opinion in favour of establishing his Church.

Viscount *Sandon*: I heard you say you would wish to have it endowed.

Mr. *O'Connell:* Never! He had recommended the purchase of glebes by the Catholic Church, just as the Catholic bishop of Clogher was now doing; but he had never advocated the connection of the Catholic Church with the State. If the noble Lord referred to his evidence, he then expressed not his own wish or desire, but the sentiments of the Catholic prelates then in London, who were willing to accede to such a measure for the purpose of adjusting the question then pending. But as to himself, he always stated, both there and elewhere, that he abhorred the very name of a state provision. He agreed with the noble Lord, that the clergy must be paid; but the question was, by whom. By those whose Church they served, or by those with whose Church they had nothing to do. Now, could anything in the abstract be more dishonest than, that to the clergyman of the noble Lord—who always voted against this country, and who treated himself with no great ceremony—he should be called on to give his money. Nothing could be more absurd or unjust than that he should be obliged to pay a clergyman who did not even perform his duty towards the noble Lord, for he did not teach him much sweetness or benevolence. In temporal matters the law, as he had already showed, was not on all occasions absolutely binding; but as to religion, he utterly denied, that Christianity derived any support from the law of the land; for how had it extended? Not only in defiance of the law, but subjected, in the persons of its believers to the cruelest tortures which the law could inflict. To force a Church on those whose conscience it did not bind might make hypocrites and martyrs, but no converts; and the demand for its support was nothing else but oppression, whether it was enforced by the bayonet at his breast, or the hand in his pocket.

Vote agreed to. The House resumed.

HOUSE OF COMMONS,

Saturday, July 28, 1838.

MINUTES.] Bills. Read a third time:—County of Clare; Treasurers Entails (Scotland).—Read a second time:—Prisons (West Indies); Joint Stock Banks.

Petitions presented. By Mr. FITZROY, from Staffordshire, against encouraging Idolatry in India.

CHINA COURTS.] Viscount *Palmerston* moved, that the House should resolve itself into a Committee upon the China Courts' Bill.

Mr. *Hawes* had been requested by his hon. Friend, the Member for Portsmouth (Sir J. Staunton), to make a few observations with respect to this bill. His hon. Friend had given notice of his intention on going into Committee, to move certain resolutions for the purpose of showing, that it was inexpedient to establish a court, with the jurisdiction about to be given by the present bill, unless the authorities of China had given their assent. Now, he had carefully looked over the papers, the noble Lord had laid before the House, and he could not discover in them the smallest trace of the smallest consent on the part of the authorities of China to the jurisdiction proposed to be given by the noble Lord. He wished to ask the noble Lord, whether the authorities of China recognized this interference with their laws? The noble Lord was about to establish a court, whose authority he could not enforce. Suppose a Chinese were a defendant, and refused to appear, a verdict was given against him, what power but that of actual force could execute and enforce the jurisdiction of the court? He found a very apt case in the papers laid on the table of the House by the noble Lord. A Chinese was wounded by one of the Lascars on board an English ship, and the Lascar was taken into custody. Our chief superintendant demanded, that he should be given up, to be tried by English laws. The reply was, that the Lascar was in custody of the Mandarin, and could not be given up, pending an inquiry, relating to the safety of the natives of China, and it was argued, that if an Englishman went to France, he must be, and would be, held amenable to the laws of France; why then, should not the same rule apply, when Englishmen went to China? That proved, that the Chinese well understood their position, and the necessity of obtaining their sanction before instituting this court. The British was admitted into the Chinese territory by sufferance, for the purposes of trade, and were bound to conform to Chinese usages, and not to attempt to force their own customs upon the Chinese. In case this measure were adopted, and attempted to be carried into effect, we should involve our commercial intercourse with China in very considerable danger. The provisions of this bill were most extraordinary. The Orders in Council—virtually, the orders of the noble Lord (Lord Palmerston)—were to have the force of law, and were to be co-extensive with the jurisdiction of the court that was to be established. The East-India Company carried on their trade in China without the aid of any such powers; and the Americans conducted their commerce with China without any such powers, nay, without any salaried establishment at all: they depended on the simple principles of trading—mutual and reciprocal benefit. Supposing this bill passed, could it be carried into operation with anything like good faith, while the contraband trade between us and the Chinese, (which went to such an extent, and which must exist, until our trade with China was put an end to), was suffered to go on? Impressed with these views, he should conclude by moving, the first of the resolutions, notice of which had been given by the hon. Baronet (Sir George Staunton). That it is inexpedient to pass any bill for establishing courts of civil and criminal jurisdiction in China, until satisfactory evidence be given of the assent of the Government of that country.

Captain *Alsager* seconded the amendment.

Viscount *Palmerston* could not acquiesce in the proposal of his hon. Friend, and thought, that he and the hon. Member for Portsmouth, whose speech he had undertaken to make, had not fully considered the nature of the bill now under the consideration of the House, and the enactments of the law passed in 1833. The hon. Member stated, that it was inexpedient to press any bill establishing courts with criminal and admiralty jurisdiction in China, without the previous consent of the emperor of China. The fact was, that this had been done by the Act of 1833, to which the right hon. Baronet opposite (Sir J. Graham) when First Lord of the Admiralty, was a party. That bill conferred on the Crown the power of establishing in China, Courts of Admiralty and Criminal Jurisdiction; and one reason why he now proposed this bill was, that he thought it expedient these Courts should, in addition to Criminal and Admiralty Jurisdiction, possess Civil Jurisdiction; and that doubts were entertained in consequence of the ambiguous wording of a clause in the existing law, whether the latter words of that clause, which specifically mentioned the Admiralty and Criminal Jurisdiction, did or did not control the words in the former part of the Section, which were more general, and which, if they stood alone, would give all the powers which were now required to establish the Civil Jurisdiction. The Act to which he referred was, the 3rd and 4th of William 4th, c. 93. It was contended that the words of the latter part of the clause controlled the former, under which it was competent to give facilities for the establishment of these Courts by an order in Council. He would contend, therefore, that the resolution applied more to the law passed in 1833, than to the bill now before the House; but he was prepared to discuss the principle of the present measure with the hon. Member. It was true, the present might be called an exceptional case. It was well known, that this country had no diplomatic connection or relations with the emperor of China. Frequent attempts had been made to establish them, but they had failed. The only way by which these relations could be established was by another embassy, and he did not think his hon. Friend would recommend such a course again. It was alleged that the India Company had no such Courts, but that they had a power and authority which stood in lieu of it. Cases unfortunately arose, in which offences had been committed by British subjects in China, and the surrender of these subjects was required, and the Company found itself placed in the discreditable dilemma of either on the one hand, surrendering a British subject to be tried by Courts, in which justice was openly set at defiance; or, on the other hand, refusing to deliver up the offender, and invest him with impunity for his offence. That position was full of embarrassment, and it was as discreditable to the character of the Company as it was to the character of the British nation. But such cases happened. Then came the embarrassment, if the Chinese government had chosen to assert its rights, and resented these infractions of its acknowledged jurisdiction, they would have stopped the trade, and that would have been attended with great loss. The Company, however, in more than one instance, risked the loss of trade, rather than be the instruments of committing legal murder on the subjects of this country. He would admit to his hon. Friend that there was no consent on the part of the Chinese authorities, nor could they obtain it without that intercourse with China which it was impossible in the present state of things to obtain. But the question was, though the authorities of China had not given their consent, whether they would resent such an interference on the part of this country; and from the papers that had been laid on the table, he thought it clearly appeared that they would not, and that there was every probability of their being reconciled to the proposed exercise of our power. His hon. Friend the Member for Portsmouth, in a work written by him on this subject, stated in distinct terms, that, in order to enforce order, the usual mode of administering justice in China, would be wholly inadequate. The question then arose, were the Chinese laws suspended or relaxed in favour of strangers. Sir G. Staunton stated, that virtually all the Chinese laws were suspended in the case of foreigners, except in capital offences, so that there was nothing contained in the bill which was at all inconsistent with the present practice, and the acknowledged principles of the Chinese people. He further stated in his book, that a foreigner who had committed an offence, if not punished, he drew down the hatred of the Chinese upon the country he belonged to; and if he was punished, it led to great humiliation and disgrace to the criminal's countrymen. It was impossible for them to deliver up any offender who was sailing for China, or was resident there under our protection. Not only Sir G. Staunton, and another gentleman, who, from his long residence in China, was entitled to be considered a high authority, he meant Mr. Drummond, who stated, that the Chinese, in the event of a murder or homicide, would put to death any person delivered up to them whether guilty or innocent; with what the Chinese, indeed, called a regular trial, but which was, in fact, most irregular and unjust. The Chinese held the Governments of foreign countries responsible for the conduct of all their subjects in China. Sir G. Staunton stated, that the Company's servants would be held responsible, not only for the conduct of the crews of all private vessels, but also for all the crews of the king's ships there. And Sir George went on to give an instance of an American, who being given up to the Chinese was put to death. This proved two things, first, that the Chinese held the entire trade of a nation responsible for all its subjects going to China, and, secondly, that the custom of delivering up persons to the Chinese tribunals in cases of homicide, (a custom opposed to that which was at present adopted by the English) was not calculated to lead to a satisfactory conclusion. Sir George Staunton contended in his book not only that it was necessary to have the power to control by established rules her Majesty's subjects, but that there should be even the power of suspending the trade of British subjects in cases of negotiation with the Chinese government. He contended, therefore, on the authority of the hon. Member for Portsmouth, that he had clearly established the grounds upon which, not this bill, but the Act of 1833, to which the right hon. Baronet opposite and himself were joint-parties, had been passed. A due regard to British interests and to British character required that the bill should pass. If it was shown that the English Government had power to establish Courts for the trial of those greater offences, and Sir George Staunton said it did not apply to the trial of minor ones, he should like to know upon what principle that power was not to be applied to the smaller offences, which it was in fact more necessary to control and prevent, as it would be the best means of preventing that insubordination which was calculated to occasion these more grave offences. He would say, therefore, that there must be some misunderstanding as to the operation of the present bill. Its object merely was to extend the powers of the existing law to the trial of civil offences. His hon. Friend had complained of the arbitrary dictatorial power confided to the Government, which, by an order in Council could establish Courts for the trial of any offences there. He admitted that such was the case, but there was no remedy for it. His hon. Friend and the House must perceive the difficulty of passing any law embodying such a code as would be applicable to all offences that might arise. It was proposed by the present measure to give to those Courts a power of adjudicating between a British subject, and persons of any other nation, or Chinese, when an appeal was made to them against a British subject. In the bill of 1833 power was given to levy certain tonnage duties to defray the expenses of the establishment of these Courts, but upon further consideration, it was felt that such a proceeding would be an injury to the trade with China, and the plan was abandoned. The expenses of these Courts have, from that period, been the subject of an annual vote by Parliament. He thought when he was bringing in a bill upon this subject it would be better to repeal that part of the law which empowered the Crown to levy duties, and therefore a clause had been introduced, in the present bill to that effect. He also felt, that it would be desirable to alter the title of the officer who was to administer the law; and for that purpose a clause had been introduced, giving the power and authority hitherto vested in the Superintendent to the Consul; at the same time, however, he felt bound to say, that he considered it desirable, that the power should be given to Consuls, he thought it might be expedient, considering the character of the Chinese nation, and their aversion to change, for some time longer to retain the title of Superintendent. These were the chief features of the bill, and with these explanations he trusted the House would allow it to go into Committee.

Sir *J. Graham* felt bound to express his regret, that the noble Lord should have thought it necessary, in the present state of the House, and at this advanced period of the Session, to bring under its consideration a question of such great importance. The noble Lord had read to the House some extracts from a work of the hon. Member for Portsmouth, published some time since; and although he was disposed to give them the credit they deserved, he must remind the noble Lord, that whatever might have been the opinion of the hon. Member for Portsmouth under other circumstances, he was decidedly opposed to the measure proposed by the noble Lord. The noble Lord was perfectly correct when he stated, that when he had the honour of being the noble Lord's colleague, he had taken some part in framing a measure, that was then brought under the consideration of the House. He never regretted that, because the measure had the effect, notwithstanding all that had been said against it, of opening the China trade. But he found himself bound to say, that experience had convinced him, that the clauses were unnecessary, and he now considered, that it would be highly inexpedient to extend their operation. It was clear, that Lord Napier leaving this country with an erroneous impression of the powers intrusted to him, did so demean himself to the Chinese authorities as seriously to endanger our commercial relations with that country, and exposed himself to such annoyances as he fully believed cost him his life. Those who accompanied him being taught by experience so modified their course of proceeding as to be able to renew our intercourse. The Chinese never allowed us to fix ourselves at Canton, and in place of having three superintendants resident there, we had only one officer exercising the powers of a Consul. He had no doubt but that the Chinese would take every advantage of the court as plaintiffs, but they would never submit to its jurisdiction as defendants, so that it would prove to be a gross hardship on British subjects.—If these extraordinary powers were granted, it would be impossible to intrust their exercise to the ordinary authorities; there must be some high legal authority. He had somewhere read that all the earth was to be put under a Commission—and he supposed there must be a barrister or a Commission of barristers, of six years standing, sent out to China to put a law in execution, acknowledged to be arbitrary in its nature. Now, as to the authority of Sir G. Staunton, which the noble Lord had quoted, that hon. Baronet had since modified his opinions, and was opposed to this bill. Besides the noble Lord rested his case on the papers that had been produced when there was no consent on the part of the Chinese signified, and he (Sir J. Graham) begged the House to recollect that captain Elliot, in his last despatch (July 1837) had stated that the Chinese were daily becoming more anxious to stand well with the British Government, but they were very jealous as to this point on which the noble Lord wished to venture, and was it prudent to run such a risk at a period when every thing was running smoothly? He would ask the noble Lord whether he did not think it prudent to wait for further accounts from that country before he called on the House, at this late period of the Session, to pass a measure which might interfere with the commercial relations which were every day becoming more important, and which had been the source of great prosperity to our commerce. In the last dispatch, dated the 26th September, 1837, Captain Elliot said, he had no hesitation in stating that it was in his power to secure for the Provincial Parliament the most formal sanction of these operations. If that was the case delay would be of considerable advantage. Although he was favourable to the motion of the hon. Member opposite, he should like the bill to go into Committee, because he approved highly of the fifth clause for the repeal of the Tonnage duties; and he therefore thought it highly desirable that so much of the bill should pass. It appeared to him, that consistently with the whole course of British policy, with international law and past experience, it would be unadvisable to pass the remainder of the bill. If some understanding were not come to on the point, he should, in the event of a division, vote against the bill.

Mr. *Warburton* hoped his hon. Friend would withdraw his resolution, and allow the bill to go into Committee. It was most essential that these tonnage duties should be repealed, and the Government having given its assent, they were certain of carrying the proposition to a favourable result. With regard to other clauses of the bill, he hoped the noble Lord would re-consider them before he decided upon pressing them upon the consideration of the House. In his opinion, it would be far better to defer them until they had some further information upon the subject.

Lord *Palmerston* begged to set the hon. Baronet right with respect to the dispute between Lord Napier and the Chinese Government. The dispute did not turn upon any question like the present, but as to the mode of communication between the British and the Chinese Governments —the former wishing to have a direct communication, and the latter refusing any intercourse, except, as under the old system, through the Hong merchants. He admitted, that it would be expedient to ascertain the views of the Chinese Government, before carrying a measure like the present into operation — Captain Elliott who was the only superintendent, gave it as his decided opinion, that the consent of the Chinese authorities, could be obtained. The right hon. Baronet had said, get the consent of the Chinese Government, and then come to Parliament. Did the right hon. Baronet really think that that would be the best course to adopt? Because when the Chinese Government was asked to consent, they would naturally inquire what the regulations were before they would decide. Now, the wish of the Government was, to obtain the consent of the Chinese Government to something specific, and that was all that was wanted.

Mr. *C. Lushington* trusted the noble Lord would accede to the excellent advice given him by the right hon. Baronet, as he felt convinced that it would be utterly useless to attempt to get the consent of the Chinese Government to abstract regulations.

Mr. Hawes withdrew his amendment.

The House then went into Committee on the bill.

On Clause one being proposed.

Mr. *Hawes* rose to move its omission. As far as he knew, no British merchants had given their assent to the measure, which was therefore to be considered as emanating exclusively from the Foreign-office. To the establishment of a court for trial of offences by British subjects, there could be no objection; but he protested against a court's interfering with an independent power like China. And if such a course were taken, let it not be forgotten that interested parties would easily be found to whisper that to the Chinese authorities, and render them jealous of, and hostile to, British interests. He therefore moved, that the clause be omitted.

The *Solicitor-General* thought the omission of the clause would place the House in a novel situation. There were two thousand of her Majesty's subjects resident near Canton, and it was necessary there should be some means of settling the disputes which might arise. It was for the benefit of those on the spot, that there should be some tribunal to which they might resort.

Viscount *Palmerston* said, as the sense of the House appeared to be against the bill, he had no objection to postpone it until next Session.

Bill withdrawn, House resumed.

CUSTOMS—DUTIES.] Mr. P. Thomson moved the further consideration of the Report on the Customs Duties Bill.

Mr. *Lascelles* wished to call the attention of the House to certain facts connected with that measure. In 1834, the Customs' Bill contained clauses constituting certain towns as places for bonding corn; but, in the present bill those clauses were omitted.

Mr. *Ashton Yates* wished it to be distinctly understood, that the mercantile interests, did not acquiesce in the proposition.

Mr. *A. Chapman* said, it was impossible that bonded warehouses could be extended to inland places, with safety to the revenue.

Mr. *Poulett Thomson* said, that in the course of the Session a great many petitions had been presented, praying for the establishment of this system, and he should be prepared next year to submit a measure on this subject to the consideration of Parliament, and he believed that as it was founded on principles of justice, it would receive the sanction of the Legislature. He should propose a measure similar to that which he had introduced before, and which was complained of as not going far enough, but which was as far as prudence would allow. He was astonished to hear from his hon. Friend an argument against the general principles of fairness and justice, founded on some miserable vested interest, which he alleged to exist in a particular instance.

Mr. *Warburton* particularly objected to the sixth clause of the bill, which enacted, that if foreign manufactures, purporting to be British, were introduced, they might be seized by any Custom-house officer in any port of the United Kingdom, or any British possession. Now, he proposed to amend that clause, first, by limiting its operation to the United Kingdom, for he thought it would be unwise to let it be executed at the discretion of any petty Custom-house officer in some small island of the West Indies. And, he should also recommend that the clause should not come into operation till from and after the month of July, 1839. He considered the words, "or in any way purporting to be of British manufacture," went too far, as they were too indefinite. He was opposed to the principle of the clause altogether; but, thinking that its omission might not be agreed to, he would, in the first instance, move that the words "British possessions abroad," be omitted.

Mr. *P. Thomson* had no objection to some of the amendments, but he did not think the object of the clause would be answered if the words "British possessions" were left out. The object of the clause was a fair one. Complaints were made, that goods of our manufacture were forged abroad—that they were brought to this country, and from this country sent to the colonies, and sold there with our mark, by which not only was our trade diminished, but the character of that trade in those articles was seriously injured. He admitted, that it was necessary to take care that while these regulations were enforced, no injury should be done to their foreign trade. He could not, therefore, agree to exclude the British possessions. Much less inconvenience and injury would result from that course than from giving the parties a right of action. In his opinion, the authorities and the Custom-house officers in the British Colonies would be perfectly able to discharge the duties intrusted to them, and to exercise a sound discretion as to what articles were and what articles were not of British manufacture.

Mr. *Warburton* thought the clause so objectionable in principle, that he should persevere in his amendment.

The House divided on the original question. Ayes 39: Noes 8:—Majority 31.

List of the AYES.

Alsager, Capt.
Archbold, R.
Barrington, Lord
Bernal, R.
Brotherton, J.
Chapman, A.
Dundas, F.
Ellis, J.
Evans, Sir De L.
Ferguson, Sir R.
French, F.
Grant, F. W.
Hale, R. B.
Henniker, Lord
Herbert, hon. S.
Hobhouse, T. B.
Hodgson, F.
Hope, hon. C.
Howard, P. H.
Inglis, Sir R. H.

Labouchere, H.
Lefevre, C. A.
Lemon, Sir C.
Mackinnon, W.
Murray, J. A.
O'Brien, W. S.
Palmerston, Lord
Pendarves, E. W.
Rice, rt. hon. T. S.
Smith, B.
Style, Sir C.
Thomson, C. P.
Troubridge, Sir E. T.
Turner, E.
Vivian, Sir R. H.
Waddington, H.
Willshire, W.
Wood, G. W.
Yates, J. A.

TELLERS.

Parker, J.
Seymour, Lord

List of the NOES.

Elliot, hon. J. E.
Finch, F.
Gibson, T.
Hawes, B.
Hutt, W.
Lushington, C.
Power, J.
Vigors, N. A.

TELLERS.

Warburton, H.
Chalmers, P.

Clause agreed to, report received.

HOUSE OF LORDS,

Monday, July 30, 1838.

MINUTES.] Petitions presented. By the Earl of ABERDEEN, from the Island of Newfoundland, calling attention to the distracted state of that Colony.—By the Earl of RIPON, from Lincoln, to Enfranchise Church Property on just and equitable terms.—By the Bishop of HEREFORD, several, against the encouragement of Hindoo Idolatry.—By the Earl of CAMPERDOWN, from Leith, against the Appropriation of Municipal Funds under the Prisons (Scotland) Bill.—By Lord BROUGHAM, from Chelmsford, complaining of certain Convicted Prisoners having been Liberated.—By the Duke of WELLINGTON, several, from places in Yorkshire and elsewhere, for the repeal of the Beer Bill.—By Lord SONDES, from Stafford, Derby, Runcorn, and other places, against the encouragement of Hindoo Idolatry by the Indian Government.

CANADA—LORD DURHAM'S PROCLAMATION.] Lord *Brougham* wished to call the attention of their Lordships to the announcement of a proclamation of ordinance which he had seen in the public papers, and which was of the greatest importance to the people of Canada. It was a proclamation agreed to by the Earl of Durham in council, and which, if the noble Earl presumed to carry into effect, he would be guilty of no less a crime than murder. So outrageous, so abominable a violation of the law, ought not, if it did exist, to be suffered to continue for an hour. He hoped, however, that no such proclamation had been issued. But the American papers had stated the fact, and they had also given the names of the parties appointed to act on the Special Council. As was the case with the former selection, no Canadian was named. He saw that the military secretary, the aide-de camp, and the civil secretary, were enrolled, but no Canadian. Then Lord Durham had issued a proclamation stating, that certain persons had declared themselves guilty, and, therefore, the Governor-general, without bringing them to trial, without having any regular examination, had sentenced them himself to transportation to Bermuda, and declared that they should be put to death if they left the place of their banishment and again appeared in Canada. This, if carried into effect, would be gross murder. Neither the Governor-general nor any one else had the least right to pass any sentence, much less a sentence of a nature so highly penal, unless the parties had been previously tried. But it appeared, that these individuals, if they returned from transportation, were to be put to death. Now, what was the course adopted in this country? Why, if the party returned (and it was every day's practice), he could not be summarily put to death under the mandate of any person. It was only when the court, which had legal jurisdiction, ordered him to be put to death that execution could be inflicted on him. It was made a capital felony, by Act of Parliament, to return prematurely from transportation, after a man had been regularly tried, convicted, and sentenced. But, in this instance, the moment a man confessed himself guilty, he was, without any legal form having been gone through, sentenced to transportation, and subjected to death if he returned from it. But this was not all. By this proclamation or ordinance, Mr. Papineau and others, who had not confessed themselves guilty, who had made no admission of the kind, were outlawed, and it was proclaimed, that if they entered the territory of Canada, Upper or Lower, they were also to be put to death. There had been already a most outrageous tampering with the law, when 1,000*l.* was offered for evidence; but this was nothing when they looked to a proclamation by which the Governor-general pronounced that he was prepared, should circumstances arise, to commit a capital felony. His commission only allowed the Governor-general in Council to frame general laws—not to make a sudden regulation under which men were to be hanged. The whole proceeding was utterly at variance with the known, and just, and established law of this country.

Lord *Ellenborough* rose to move for a copy of the proclamation to which his noble and learned Friend had alluded.

Also, for the names of the persons appointed to act on the Special Council, and the day on which the proclamation or ordinance had passed. His noble Friend, the Secretary for the Colonies, would see the propriety of his calling for the date; because, he believed, connected with the date, he could show that three other grounds of illegality with reference to this proceeding existed, besides that which his noble and learned Friend had pointed out. Before Sir J. Colborne left the Special Council he sanctioned certain rules for the government of the proceedings of that council. One of these rules set forth, that every meeting of that council should be convened by proclamation twenty-one days before the meeting took place. Now, the council at which this ordinance was passed was summoned on the 28th of June, and proceeded to business on that day, which was manifestly against the regulation. Again, the 15th resolution directed, that when any new law was introduced, any Member might move, that it should be read a second time on the next day of meeting, and that it might then be read, unless some more distant day was proposed. In this case, however, the rule was wholly departed from; and the ordinance was read a first, second, and third time, and agreed to, on the same day—the day that he had already mentioned. This was contrary to the standing order. It was at least irregular, if not actually illegal. He now came to his last, but to his most important, objection. Five persons only had been appointed to the Special Council, and it had been ordered, that five should be present when any act was passed. The ordinance in question was discussed on the 28th of June; and he found that one of the five members of the Special Council did not arrive at Quebec till the 29th of June, the day after the ordinance was passed. Therefore, there could have been only four members in the council when the decision took place, which rendered the whole proceeding illegal. There was not anything, he must observe, that required more anxious deliberation than cases of that description to which the ordinance referred; because it was necessary to draw a line of distinction between persons who, on the first glimpse, might seem to be involved in the same degree of criminality; and it was a nice thing to declare, without serious deliberation, that some should be transported, and others, on their recognizance, set free. Here he saw, after a very short consideration, that eight persons should be transported to Bermuda, and hanged if they dared to come back; and sixteen more were outlawed—banished from the colony, and subjected to capital punishment if they returned. Others, it appeared were to be pardoned on giving security. These, he repeated, were matters that required deep consideration; but here twenty-four cases of transportation and banishment, with the penalty, on returning, of death, were decided in one day. Great punishment was awarded against these persons, while pardon was extended to others. It was necessary that their Lordships should have these papers before them, in order, that they might investigate a proceeding which appeared to him to be disgraceful to the Government, and likely to bring into hatred the authority of this country.

Lord *Glenelg* was quite ready to lay upon their Lordships' table any papers upon the subject in his possession. All that he now had were the ordinances, and some private letters, which he was not at liberty to produce. He had only to observe, that it was premature to condemn the conduct of Lord Durham, which had gained the confidence of both parties in Canada.

Lord *Brougham* said, that he did not absolutely condemn Lord Durham. He only condemned him, in the event of its being true, that he had issued such a proclamation. He appealed to any lawyer in the House whether murder would not be committed in hanging a man without first bringing him to trial.

Viscount *Melbourne* said, that considering the difficulties of Lord Durham's position—considering the distracted state of the colonies over which he was sent to preside—considering the state of the empire, and how deeply the empire might be affected by what passed in that House, it was in the very highest degree imprudent, and he would add, unpatriotic—it was sacrificing the interests of the country to the interested party—it was sacrificing the highest objects to the desire of attacking an individual, to pass such a decided and determined condemnation upon an act which had been deemed necessary by the noble Lord who was upon the spot, and had the best means of judging what was fit to be done and what was for the benefit of the State. He had no objection to the production of the papers, or to the fullest discussion in that House or elsewhere of what had been done in the province. He could not refrain from expressing the strong opinion which he felt upon the course which had been adopted in reference to Canadian affairs.

Lord *Brougham* dissented most strongly and peremptorily from the doctrines which had been laid down by the noble Viscount at the head of her Majesty's Government. He held it to be neither premature, nor imprudent, nor unpatriotic in that House to keep a watchful eye on the exercise of the dictatorial powers which had been intrusted to the Governor-general of Canada. They were told during the debates which preceded the passing of the bill that Parliament would be always at hand to superintend and control the exercise of those powers. "Don't fear," said the noble Viscount and his colleagues, "to give ample authority. It will be always under the control and supervision of Parliament, and if unduly exercised, Parliament can be called upon to interfere." Powers ample and extensive were accordingly given—powers hideous and portentous in their nature, and yet even these had been exceeded by the noble Lord to whom they were intrusted. This authority, however ample and tyrannical, was not considered sufficient by those upon the spot. They were exceeded to an extent, that if before they were given any one had predicted such a result, it would immediately have been pronounced to be impossible. The noble Viscount talked as if the powers given to Lord Durham had been exercised, but not exceeded. Was the issuing of such an ordinance an exercise of the powers of the act? Instead of confining himself to the powers of the act, the noble Earl was running in the teeth of the act, and of every known law and usage in England. The noble Viscount had talked of a person upon the spot knowing best what was necessary to be done for the good of the public; he would ask was it necessary to commit a felony for the good of the public? Was it necessary to hang a man before they brought him to trial? Could any difficulties of the noble Lord's position—could any state of the empire, justify the tolerating of such orders? The House, he thought, would fail in their duty to their country if they allowed a single day to elapse without calling for an explanation of such proceedings. He denied, that he sought an occasion of attacking Lord Durham. These ordinances had been published in America, and were known to the world. But, says the noble Lord, Lord Durham has conciliated all parties in Canada. Did all parties in Canada, then, approve of illegal acts? When Lord Durham was given up by the noble Viscount, he had defended the noble Lord, and by doing so called down upon himself the censure of a right rev. Prelate for whom he had a great respect, because he always acted conscientiously, and also the censure of a noble Duke. Nothing could be more solemn than the denunciation upon that occasion by the noble Viscount of Lord Durham and Mr. Turton. In its generality there was wanted no charge, however odious. He never desired to be set-down more in his presence or in his absence—in public or in private—than to have it said of him by the one who had appointed him to a confidential situation, "I have seen with deep regret the acts which he has done, and am greatly surprised at them." With respect to the charges which had been made against him by the noble Viscount, of being influenced by factious motives, he regarded them as little as the noble Viscount used himself to regard similar charges when he was accused for bringing charges against the Government of that period, being influenced by factious motives.

Lord *Glenelg* repeated, that he had no objection to lay the papers upon the Table.

Motion agreed to.

JUVENILE OFFENDERS.] The Marquess of *Lansdowne*, in moving the third reading of the Juvenile Offenders' Bill, said, that he wished to correct a statement which he had formerly made respecting the number of children lost or abandoned in the town of Manchester. He had stated the numbers correctly, according to the police returns, but the inference which he had drawn was incorrect, for the number of children returned as lost or abandoned included the whole number every day in the year; and, consequently, it was not to be inferred, that that immense number was the actual number of children permanently lost or abandoned; for the fact was, that a great number included in the returns were afterwards claimed by their parents and returned to their homes.

Bill read a third time.

Lord *Lyndhurst* said, that he was desirous before the bill passed of calling their Lordships' attention to it. The subject was one of great interest and importance, and he was ready to admit fully that the object of the bill was in every respect laudable. Its object was to have a separate prison for offenders under a certain age; and nothing could be more desirable than that offenders of that class should be enabled to avoid that influence and example, which were found to be prejudicial to their morals, when they were kept in the same custody with the general class of offenders. Looking at the preamble, he found, that part of the object of the bill was to reform and instruct juvenile offenders. The object, therefore, was highly laudable, and in proportion to the importance of the object was the importance of considering the manner in which that object was to be effected; but he did not find on the face of the bill, nor in the statement of the noble Marquess, either today or on a former occasion anything which could give them any insight into the system which was intended to be pursued. In the first place, however, he wished to remark, that the observations of the noble Marquess with regard to the town of Manchester were founded in a total misapprehension; the fact was, that there were scarcely any instances of children being lost or abandoned there. A humane regulation existed in the town, by which the police took any children whom they found wandering to the nearest police station, that parents might know where to claim them; for this purpose they were taken there; and though it was true, that in that manner upwards of 8,000 had been found within the last four years, still he understood that all of them, with the exception of a single instance, had been claimed and had returned to their parents. Now, considering the importance of this subject, he submitted that there ought to be, either on the face of the bill or in the statement of the noble Marquess, some explanation of the course which was intended to be pursued. If they intended to adopt anything like the separate system, he protested vehemently against it; but further, there was a principle now introduced for the first time in this bill, to which he very strongly objected. In all the prisons of this country whether county gaols, houses of correction, or penitentiaries, a system of inspection was established, which had been of the greatest public benefit. Nothing was so liable to abuse as imprisonment, sometimes from negligence, sometimes from indifference, sometimes from cruelty, sometimes from passion, and therefore the law had wisely provided for the strict inspection of all the gaols of this country. By the 31st of George the 3rd, visiting magistrates were appointed, who were bound to inspect the prisons three times in every quarter, and individual magistrates had the right of inspecting them at any time. That system had been found to work very beneficially; and it applied to all the prisons of England, with a single exception, and that exception was the Penitentiary at Millbank, which the magistrates had no right to visit, and which did not come under their jurisdiction; but so anxious was Parliament on this subject, that a committee had been appointed by the Privy Council for that purpose. Now, what was the principle which was attempted to be established for the first time by this bill? That no magistrate should have any right to enter the juvenile prison, which was to be liable to the inspection of no one but the individuals appointed by the Government, and in the pay of the Government. It would, perhaps, be said, that there was already persons appointed as inspectors of prisons; but they were appointed by the Government, and dependant upon the Government; and as the existence of their offices did not interfere with the visiting power of the magistrates in regard to other prisons, he protested most strongly against the principle which was sought to be established. He knew some noble Lords considered this bill an experiment, which ought to be made on the responsibility of Government, and that that responsibility would be diminished if they admitted the magistrates to have any control or influence in the management of this prison; and he admitted, that it was an experiment which should be made on the responsibility of the Government; but how were they to know in what manner the system worked, and with what success it was attended, unless some persons were allowed to witness its operation besides those who were dependent on the Government and favourable to their views? Another point which rendered this inspection still more important was, that the governor was to have the right to inflict corporal punishment: it was true, the Secretary of State was to lay down certain regulations, but who was to apply them? The nature and extent of that corporal punishment was left in the breast of the governor, for anything that appeared to the contrary. For these reasons he submitted, that the general rule ought not to be departed from in this instance, but that the visiting magistrates should be required to report either to the bench of magistrates, if the noble Marquess pleased, or to Parliament, or to the Secretary of State, from time to time, upon the success of the system. He had said, that if the separate system of punishment were to be adopted for the reformation, instruction, and improvement, of juvenile offenders, he protested strongly against it; and why? He had had his attention drawn to this subject by being a member of a committee of their Lordships, which sat early this Session; and he would advert to the separate system established in the Penitentiary which was then examined. He did not mean to make any charges against any individuals or body of men connected with that prison, for he believed that the persons superintending the Penitentiary were persons of great humanity, and discharged their duty well and faithfully; but his objection was to the system; and he would state the instance of one of the persons to whom that inquiry before their Lordships extended—he meant the case of Matilda Seymour. She had been instigated by her mother to commit a trifling theft, and her mother received the goods which she stole. Both were tried and convicted; and the mother was sentenced to six months' imprisonment and hard labour, which consisted, he believed, in being kept at the washing tub. The child was sentenced to be transported; but her sentence was commuted into a sentence of imprisonment for three years. That child was scarcely an object of punishment; at the most she was about ten years of age, and she had acted at the instigation of her mother. Accordingly, it must be said, by way of defence, that the sentence was not intended as punishment, but for her reformation and instruction. She was sentenced to the Penitentiary for three years for her improvement and reformation. But if the Government undertook the reformation and improvement of children, it should establish a different system from that pursued in the Penitentiary—a system entirely different from the separate system. What was the evidence of the resident governor himself? He had said, that the system was not generally applicable to children; and Mr. Russell, another governor, had expressed the same opinion, even in stronger terms. Was he not right, then, in saying, that if the Government undertook the reformation and instruction of children, they ought to establish a different system? Some exercise was necessary for the preservation of health; but what description of exercise ought it to be? Merely putting one leg before another was not sufficient for a child. The exercise ought to be of every kind and variety; every part of the body ought occasionally to be brought into activity; and at the same time the mind should be employed to render the exercise beneficial. Their Lordships, assenting to these observations, would be surprised at the kind of exercise which was allowed to this child, who was put there not for punishment but improvement. For half an hour in the morning, she was allowed to walk in single file round a small yard, enclosed by a high wall; and if the weather permitted, for half an hour in the afternoon. That was all the exercise she was allowed in the twenty-four hours. Again, he had made a calculation of the average number of hours out of the twenty-four during which she was shut up by herself in a cell not much larger than that table. If they added together the hours for attendance in chapel, for instruction, for washing, and for walking, the amount would be twenty hours in the week, or less than three hours each day; so that this child, not more than ten years of age, was to be confined for twenty-one hours out of the twenty-four during three successive years, in a cell not larger than that table; and in order that the child might derive no instruction from without, the window-cills were so high as to prevent her from looking out, and there was that child kept for twenty-one hours out of the twenty-four—not kept there for punishment, but for the reformation of her morals and the improvement of her mind. Was he wrong, then, when the Government was presenting a bill respecting the imprisonment of juvenile offenders, to call their attention to these matters, and to urge the necessity of adopting a different system? There was a beautiful passage of a French author, St. Pierre, in which he spoke of the impression produced by external objects on the mind of a child, and of the manner in which the young mind gradually expanded under the influence of those impressions: but here they had acted on a directly contrary principle; they acted on the principle of shutting out all external sources of improvement from the mind of the child, and of barbarising and stupifying its mind. He hoped, therefore, the noble Marquess would have the kindness to tell them, that a system of this kind was not intended to be established under this bill. The beautiful lines of their great epic poet, afforded almost a literal description of the situation of that child placed under the cruelties of that system:—

"Thus with the year
Seasons return; but not to me returns
Day, or the sweet approach of eve or morn,
Or sight of vernal bloom or summer's rose,
Or flocks, or herds, or human face divine;
But cloud instead, and ever-during dark
Surrounds me, from the cheerful ways of men
Cut off, and for the book of knowledge fair
Presented with a universal blank
Of nature's works to me expunged and rased."

Almost literally did these beautiful lines apply to the situation of that child. The effect of the confinement had been this—that in a short time she was afflicted with scrofula, and the medical man had said that she would not recover as long as that confinement was continued; and he had further said that scrofula and consumption arising from confinement, were the prevalent diseases of the establishment. Would she not have been better if she had been allowed to walk in the garden of the establishment? Undoubtedly she would; but then the strict rules of discipline would have been broken. He had called their Lordships' attention to this matter for the purpose of mentioning the evidence of the Chairman at the Middlesex Quarter Sessions (Mr. Sergeant Addams), who was a member of the Children's Friend's Society. What was the evidence of the learned Gentleman? Why, that in that society they acted on a principle directly the reverse of that adopted at the Penitentiary, that they allowed the children to associate together, they indulged them in all the amusements of childhood, that they treated them with great kindness, and that the effects that that system produced were perfectly marvellous. One child, who had experienced the benefits of that system, had expressed his gratitude in these natural terms:—"You have changed me entirely, and I love you all." Why had he called the attention of their Lordships and of the Government to these subjects? For the purpose of inducing the noble Marquess to tell them what system it was intended to adopt in the prison regulated by this Bill. He called on the noble Marquess to give that explanation, for, if it were intended to adopt the separate system, he desired to enter his protest against it; but, if, on the contrary, the noble Marquess meant to say that the more benevolent and wiser system acted upon by the Children's Friends' Society were that which he proposed to introduce, he would heartily join with him in pressing forward this measure, which only proposed to do that which ought to have been done much earlier. Whatever that explanation might be, he had merely done his duty in calling the attention of their Lordships to the subject. The noble and learned Lord then moved the insertion of certain clauses providing for the appointment of visiting magistrates, who were to inspect the prison three times every quarter, and to report on its state from time to time.

The Marquess of *Lansdowne* was glad of the opportunity of giving an explanation on the points to which the noble and learned Lord had alluded, and first he would notice the statement made by the noble and learned Lord in reference to his explanation of the returns from Manchester which he had cited on a former occasion; he had given the explanation nearly in the terms of the noble and learned Lord himself. He had said that which was confirmed by the noble and learned Lord, viz. that a great proportion of the children included in that return, had been reclaimed by their parents, but he had no authority to go to the extent of saying that there was scarcely any exception. But now he again reverted to that statement as bearing out his argument, that in great cities there must constantly be a vast number of children freed from the care and control of parents, and that that was the class which supplied the materials out of which arose that tremendous increase of crime amongst children, which it was their Lordships' province to check. The noble and learned Lord had proceeded to express doubts as to the character of the remedy which was to be applied, and he had rather unnecessarily argued before their Lordships that which was admitted by the Government and all persons who had attended to the subject—that a new system was necessary to be introduced. It was surely unneccessary for the noble and learned Lord to use so much of his eloquence to prove that common prisons were not the places in which either male or female children should be confined. The noble and learned Lord had referred to an inquiry into the cases of certain children in the Penitentiary, and he had told them that the result was that even in the opinion of the best officers connected with the administration of that prison, they were not proper places for juvenile offenders. The noble and learned Lord might have added, in the particular instances inquired into, such was the care, the vigilance, the attention paid to those children, that though they were necessarily restricted to obey the peculiar rules of discipline established there, they stated themselves to be without complaint, and to be comparatively happy; and especially with regard to the parlicular case of Matilda Seymour. By the care and attention which had been paid to her she had been placed in a situation to earn her own livelihood; she had received various kinds of instruction, and had been rescued from a woman from whom she would have learnt nothing but depravity. It was nothing new to condemn the system of prisons, as inapplicable to the cases of children, and that was the very groundwork of the present bill. The noble and learned Lord had referred to a society of which he had been a member for several years; he had presided at its meetings, and he had observed the operation of its system to be most beneficial; but the noble and learned Lord should have stated that these establishments were confined to children wandering about, not having actually committed any crime, because the society had no authority to receive children convicted of any offence. It would be, therefore, rather unfair and illogical to suppose that precisely the same results should attend the operation of that system in the case of children already in some degree hardened in crime. The noble and learned Lord had asked him whether a system different from that adopted in the Penitentiary were to be introduced. Why the whole object of the measure was that it should be different. But did he state that for the first time? As almost doubted whether the noble and learned Lord had attended to him; because he had formerly stated that the object of the Bill was to introduce a system totally different, and he had adverted to a document in explanation of that new system, which, if the noble and learned Lord had read, it would have given him complete satisfaction. The first thing he found in that document was, that a system of separation was not applicable to children; the commissioners said that they did not advocate the application of the separate system generally to young children, though for very short periods that species of disciple might be necessary. That was the document to which he had referred a fortnight ago as forming the basis of this bill. As to air and exercise for this particular prison, no less than eighty acres of land were to be provided for the purpose. Most beneficial results had been produced by the Society of the Refuge for the Destitute, of which he was chairman, which afforded a better example than the Children's Friends' Society, inasmuch as they would receive convicted children. It might be interesting to their Lordships to know that at this moment there was a considerable tradesman in a neighbouring town who was an arrant thief when ten years old, and had been taken into the Refuge for the Destitute, and there taught the trade which he now followed, he had nine apprentices, some of whom came from the Refuge for the Destitute. He objected to the clauses proposed by the noble and learned Lord, because they introduced the authority of the local justices of the county in which this prison happened to be situated, though the prison itself had nothing to do with the country. It was a national prison, subject to the inspectors of prisons, who were under the control of Parliament; and it was placed he believed, on the same footing with the Penitentiary, and all similar national establishments, independent of the local authorities. All that he wished was, that whatever authority the noble and learned Lord proposed to establish, it should be an authority of a central nature, that it should report to the Government or to Parliament should it be preferred, and that it should be under the control of the Government as well as of the Parliament. The other amendment provided, that a child escaping from confinement should be liable to punishment. Now, he had no doubt that when a child so circumstanced was brought back to the place of confinement the original punishment to which he was liable would revert, and consequently there was no reason to introduce that clause. There were various degrees of offence and penalty, and he thought it would be more uniform if the original punishment should revert in the case of such parties than that they should all be subject to one particular punishment for having escaped, and that this punishment should be fixed without reference to their various grades and degrees of guilt.

The Earl of *Chichester* looked upon the bill which was now before their Lordships as a most important, wise, and salutary measure; and he had always considered it to be the fulfilment of a promise made two Sessions ago by the noble Marquess who had just sat down, in reply to some questions put to him by the noble Duke (Wellington) with reference to some children tried and convicted at quarter sessions. He had fully considered the subject of the noble and learned Lord's amendments; and it was his conviction that these prisons could not be subjected to that constant and vigilant superintendence which was so necessary to their well being, if they were left merely to the inspectors of prisons. He had recommended to the committee which sat upon the subject of prison discipline to appoint a board expressly for the purpose of inspecting and superintending these prisons, with inspectors acting under their authority, and representing to them correctly the state of the different prisons. At the same time he would not interfere with the authority of the visiting justices, whose advantageous local influence he should be most sorry to dispense with. It was, at the same time, however, most important, that the prisons should be visited by regular official inspectors; he certainly did not think that this was a matter to be left to the Secretary of State, who had so many other important matters to attend to. He would suggest, that a certain number of persons should be appointed at Quarter Sessions to the duties of this inspection of which they should report the result to the Secretary of State, sending also a copy of the report to be laid before the next Court of Quarter Sessions. He could not help thinking, that the publicity given to these reports would be productive of the utmost advantage. He would move, that the existing prisons for juvenile offenders, and any others which might be hereafter erected for the same purpose, should be referred to this board, of which he had spoken. He was most anxious that this experiment should succeed, and he hoped, that it would be extended, in that case, to other classes of criminals. From all that he had seen, he was more and more convinced of the unsatisfactory character of the secondary punishments now inflicted. He earnestly hoped that some system of penitentiary discipline might be adopted; and he hoped that his noble Friend the noble Marquess might before long propose to their Lordships some measure of this kind. The noble Earl concluded by proposing an amendment to the first clause, to the effect that two or more visiting justices be appointed, who should personally visit and inspect the prisons at least three times in each quarter of a-year, and should make a report once in each quarter of a-year to the Secretary of State; and that a copy of such report should be sent to the clerk of the peace; provided always, that such visiting justices should be empowered, at all reasonable hours, to visit and inspect the prisons, and to make a report upon any abuse to the Secretary of State whenever they deemed it necessary.

Lord *Lyndhurst* said, that if the noble Marquess would assent to this amendment, he was willing to withdraw his own, in order that the noble Earl might propose his. He only wanted some proper and independent persons to inspect the prisons, and report thereon to the Secretary of State.

The Marquess of *Lansdowne* would not object to the appointment of persons by the Privy Council for that purpose; nor did he object to any species of observation emanating from the public generally, and not from the particular county.

Lord *Portman* wanted independent persons to be appointed. At the same time he thought that any justice ought to have the power of inspecting these prisons, and he should therefore submit to his noble Friend's consideration an amendment to the effect that any justice of the peace, acting for any county in England, should be allowed to enter into and examine such prisons as often as he thought fit, and if he discovered any abuses therein, he should be required to report them to the Secretary of State. He thought that this would secure that additional inspection which the noble and learned Lord and his noble Friend the noble Earl seemed to have agreed upon, and he thought it expedient that every justice should have the right of inspection. He hoped, that their Lordships would study the third report of the inspectors of prisons, than which no more valuable document had been laid on the table of that House for many years. He hoped the noble Marquess would turn his attention to the establishment of some general prison, where persons incarcerated for a long term of imprisonment might be removed, and where some corrective system might be applied. He would put his amendment in the hands of his noble Friend the noble Marquess, and would beg him to consider it.

Lord *Brougham* objected to the practice of making material amendments in a measure after the third reading of the bill. He thought it would be better to postpone the debate on this subject to a future day.

Debate adjourned till Thursday.

RECOVERY OF TENEMENTS.] Lord *Hatherton*, in moving the second reading of the Recovery of Tenements Bill, said, that it was extremely probable that most of their Lordships were not aware of the difficulty of obtaining the recovery of small tenements, though such Members of that House as were acquainted with the manufacturing districts might be apprised of it. He was himself a trustee of property on which there were more than 3,000 cottages, and in that capacity not a month passed but he had experience of the extreme inconvenience of the present state of the law. He believed, that the poor themselves were the greatest sufferers by this state of things. The object of the bill was, not to give the owner any additional remedy for the recovery of rent, but more certainty in recovering the possession of the premises. The mode proposed of operating a change in the law, was by enabling the owners of tenements, after due notice to the party, holding over, to apply for a magistrate's warrant to take possession, notice of not less than seven days having been given to the tenant holding over; and if the magistrates in petty sessions should be satisfied as to the ownership of the property by the applicant, they might issue their warrant at once to take possession, but at least twenty-one days' notice was to be given to the opposite party. Then, the bill provided, that if the party obtaining this warrant had not the right of possession, such warrant was to be a trespass, and the party holding over having given his own bond and that of two sureties to prosecute the action, if he obtained a verdict, was to be entitled to at least double costs. He thought, therefore, that under this bill the rich man would not be likely to avail himself of any unfair advantage. If, however, the defendant obtained a verdict, he would recover his costs from the party holding over, or from the sureties joined with him. He trusted this bill would not meet with any opposition. He believed, that under the present law persons were frequently obliged to spend more than the value of the property in an attempt to recover it from a tenant. The bill had been three years in the House of Commons, and had never been opposed by a larger minority than seven, and so far was that House from thinking the measure unpopular, that they raised the value of the tenements to which the bill applied from 10*l*. to 20*l*. He therefore moved, that the bill be now read a second time.

Lord *Brougham* remarked, that there might be a termor and a title, and if so, this plan amounted to trying an ejectment in a summary manner.

Lord *Hatherton* said, that the question of title would be tried at the Assizes. When the party holding over entered into a bond to prosecute the action, he would retain possession of the property till the question was decided at the Assizes.

Lord *Brougham* said, that this removed much of his objection to the bill.

Bill read a second time.

CUSTODY OF INFANTS.] Lord *Lyndhurst* on more than one occasion had had the good fortune to submit to their Lordships' consideration questions connected with the great principles of humanity and justice, and many alterations of the law founded upon those principles—alterations which had met with the entire approbation of their Lordships; but he had never yet submitted to the House a question which he felt more deeply, or which he considered of more importance than that which was embodied in the bill the second reading of which he was about to move—the Custody of Infants Bill. The measure had been introduced into the other House of Parliament by an hon. and learned

Friend of his (Lord Lyndhurst's), a Gentleman of great eloquence and high attainments; it had been most actively and most vigorously opposed by another hon. and learned Friend, who was distinguished for his great legal knowledge, and for the extraordinary acumen of his mind; and notwithstanding that active and legal opposition in every stage of the bill in the other House of Parliament, still the promoters of the measure succeeded in carrying it by very large majorities. It was under the sanction of the other House of Parliament, that he submitted the second reading of the bill to their Lordships' consideration. He had always felt it to be incumbent upon a Member of their Lordships' House, when he proposed any alteration in the existing law of the land, to state most distinctly what the existing law was, what were the evils arising from that state of the law, and what was the remedy he proposed; and feeling that duty to be incumbent on him as a legislator, and as a Member of their Lordships' House, he should, as shortly and distinctly as was possible, state the law as it at present stood, the evils arising from it, and the remedy which by this bill he proposed. He was satisfied the House would go with him in thinking, that the evils were great, and he believed the only point on which a difference of opinion would arise would be as to the adequacy of the remedy. As the law now stood, the father of a chilld born in lawful wedlock was entitled to the entire and absolute control and custody of that child, and to exclude from any share in that control and custody the mother of that child. The mother might be the most virtuous woman that ever lived, amiable in her manners, fond and attached to her children; the father, on the other hand, might be profligate in character, brutal in manner, living in adultery, and yet would have the right under the existing law to the custody of the children of his marriage, to the exclusion of even access to them of his wife, their mother. Further than this, if the father availed himself of the law as it now stood, he might apply it to personal pecuniary objects, to the extortion of unjust concessions from the mother, and still have the right to bar her from all access to her children. Such was the state of the law as far as it related to legitimate children; the law in reference to illegitimate children was however wholly different. Now, in order that he might not be supposed to misstate the law in these respects, he conceived it to be his duty to call the attention of the House to some of the cases which had been quoted in the other House of Parliament by the hon. and learned Gentleman to whom he had already referred; these cases involved no point of a technical character, and being most interesting in their facts, he trusted they would be listened to with indulgence and patience. The first case to which he would refer was that of Mrs. Emanuel. That lady had married a French emigrant. She was before her marriage in possession of about 700*l.* a year, which on the marriage was settled to her own use, with certain contingencies. The husband received 2,000*l.*, but not being satisfied with this settlement of the property, he persecuted his wife to make her will in his favour. She had the firmness to refuse. He then threatened to take her out of the kingdom, but this was barred by a covenant of the settlement. He next threatened to take her child, an infant scarcely five or six months old, out of the kingdom, and he succeeded in tearing the child away from its mother, and placing it in the custody and care of a hireling nurse. Application was made to the court on behalf of the wife for access to the child, and though the Court admitted that nothing could be more infamous or base than the motives by which the father had been actuated, still, as the mother had no right to interfere, as the father had hired a nurse as a substitute for the mother, and as the child was not suffering in health, the court could not interfere and afford the redress sought. The next case was that of Mrs. Skinner. In that case the husband and wife were separated in consequence of the barbarous usage of the husband, who was then living in adultery with a woman of the name of Delaval. The child, only six years of age, had previously been left, and properly left, with the mother; the husband, however, got possession of the child, and on the question being agitated in court (the child having in the mean time been delivered to the mistress of its father, who was then confined in Horsemonger-lane Gaol, where the child was carried to him day by day) the court said, that it had no power to interfere, and thus the child was wholly separated from its mother. That mother was of irreproachable character; her conduct had received no stigma of any kind; she was fondly attached to her child, and he (Lord Lyndhurst) left it to the House to conceive what must have been her sufferings, and to say whether, in contrasting her character and conduct with that of the husband, the law in that case was not harsh, cruel, unjust, and severe. But there was a third case—that of Mrs. M'Lellan. These parties were also separated. The cause of their separation did not appear. The child had been left with the mother, but possession was taken of it by the father, who sent it to school. The child was attacked with a scrofulous complaint, a disease of which two other children had died, and by persuasion of the governess the mother obtained possession of the child, in order to take care of and watch over it as only a mother could. On the application of the father to the court for the child, the court said they had no power to interfere, as the father had a full right to debar the mother from all access to the child. He, however, wished to refer to the language used by the learned judge (Mr. Justice Patteson) on that occasion. He said, "It did not appear that the child had been ill treated." What was the answer of the learned judge? He remarked that "there was a wide difference between the absence of all intentional cruelty and the devoted watchfulness and care of a mother, especially in a case like this, where, from the circumstance of her former children having suffered from the same complaint, the mother may be supposed to have earned the experience of what was best to be done." Such was the feeling of that wise, humane, and charitable judge, and still he was bound by law to restore the child to the person whom the father had named to receive it. Then came the case of "Ball *v.* Ball," which was a still more recent decision. In that case the father was living in adultery with another woman; the child, however, though left with the mother, was in the habit of visiting its father, and on one of those visits he took possession of it, and sent it to school without any notice to the mother what he had done with it. After a length of time the mother discovered where the child was placed, and made application to the court for its restoration, urging, that the terms of the separation had been, that she should have the custody of the child. That application was unsuccessful, and a second was made to the court in the alternative, that if the law did not permit the restoration of the child, the mother might, at least, have access to it. In answer to that application, what had been the language of the court? The Vice-Chancellor said, "I do not know that I have any authority to interfere. I do not know of any case similar to this, which would authorize my making the order sought in either alternative. If any can be found, I would most gladly adopt it; for, in a moral point of view, I know of no act more harsh or cruel than depriving a mother of proper intercourse with her child." It was clear that the learned judge in that case regretted that he could not accede to one of the two alternatives. Another and more recent case was that of Mrs. Greenhill, and that case was of this description:—She had three daughters, the eldest about six, and the youngest about two years of age. She was living with her children at Weymouth for the benefit of her health, when she received information that her husband was, and had been living in adultery with a female of the name of Graham for upwards of a year; she was astonished at the intelligence, and on consultation with her mother, and her friends, she was advised by them to apply to the Ecclesiastical Court for a divorce. What had then been the conduct of the husband? He sent his attorney to her and threatened that if she went on with the ecclesiastical suit, he would take the children from her. Mrs. Greenhill erroneously supposed that she had a right to retain possession of her children, and went on with her suit for a divorce. Subsequently, proceedings had taken place in the courts of Chancery and King's Bench, and it was there ultimately decided that the wife must not only deliver up the children, but that the husband had a right to debar the wife of all access to them. The judgment of the court was in these terms:—The Vice-Chancellor said, "That however bad and immoral Mr. Greenhill's conduct might be, unless that conduct was brought so under the notice of the children as to render it probable that their minds would be contaminated, the Court of Chancery had no authority to interfere with the common law right of the father, and that he had not the power to order that Mrs. Greenhill should even see her children as a matter of right." Here again was there a complete exclusion of the mother from all access to her offspring, with a manifest expression of regret by the court that it had not power otherwise to act in the matter. He had stated these cases for the purpose of proving the evils of the existing law. Had he succeeded in doing so? Did they not prove that a father, however immoral, profligate, and dissolute, had not only the exclusive right to the custody and possession of his children, but also the right to debar his wife, a woman of virtue and of irreproachable character, from even access to her children? If, then, he had made out a case of cruelty and oppression under the existing law, would their Lordships say, that some mitigation of the law in these respects was not necessary—that some change ought not to follow in order to mitigate its harshness, cruelty, and, he must add, injustice? It was not for him to describe the situation of a woman ardently and devotedly attached to her offspring under such circumstances as those the cases he had cited divulged; it was not for him to point out the harshness and cruelty of the law, which enabled a husband to make use of those very affections as a means of torture, to enable him to extort unjust concessions from his wife. Was the House prepared then, under these circumstances, to say that no alteration of the law in these respects ought to take place? The harshness and severity of the law were increased by the fact, that with the mother of an illegitimate child no person, not even the father, could interfere with her possession of her offspring; and yet the mother of legitimate offspring, the woman of irreproachable conduct and character, was by the law stripped of all control, and even access to her child. That being so, what was the alteration proposed by this bill; He had already said, that he thought the only valid objection to the bill would be, that it did not provide a remedy equal to the evils which existed. The bill did not ask that the child should be handed over to the mother, it did not encroach upon the rights of the father to the possession of the child, it did not interfere with his claims, but all the bill said was, that the father should not be judge in his own case; it did not entirely exclude the mother, but it said, let some judge of the superior courts decide whether or not the mother should be entitled to have access to her child—to what extent, to what degree, and under what circumstances and limits that access should be permitted. The bill, in fact, took the matter out of the hands of the father, and placed it in the hands of the independent judges of the highest tribunals of the country. He understood his noble and learned Friend opposite (Lord Brougham), whose powers of eloquence he viewed with respect, intended to oppose this bill, but for what reason he was at a loss to know. He should therefore wait to hear his noble and learned Friend's arguments, as he was at a loss, he confessed, to guess what arguments could be urged with success against the measure. He knew it might be said, that cases of the description he had stated were but few, but even so, he maintained they were such as to call for the interposition of the Legislature. But how was it known that such cases were few in number? for though but few might come before the tribunals of the country, because the law was so clear, so distinct, and so well understood, that every woman would be told by her legal adviser, that it would be useless to apply to the court, for no court had power to relieve, and yet no one could tell how many women there were who now suffered in silence under the oppressions of this harsh and unjust law. Then he had been told, that this bill might lead to litigation; but that was no reason why the House should not interpose for the prevention of cruelty and oppression such as he had pointed out. He had heard and read (because there had been publications on this subject) that the measure would lead to much perjury. Doubtless, in every case of conflicting rights, the courts were liable to witness the commission of the crime of perjury, but, he contended, that they would not be more so under this bill than by the law as it now stood. It had been said also, that this bill would encourage separation, because the wife was not now inclined to separate, because she might thereby lose the chance of protecting her child; but let the other side of the question be looked at, and then let it be remembered, to what tyranny and oppression, on the part of the husband, the existing law led. But it was idle for him to anticipate the arguments which might be urged against the bill. He had stated the evils, harsh, oppressive, and cruel, as they existed, and he had stated the remedy, the mildest remedy that could by possibility, be applied to evils of that description, By this bill he did not seek an interference with the rights of parties, but he wished for some rightminded, impartial man, to say to what extent a virtuous mother might be allowed to have intercourse with her children when separated from her husband. However scanty the remedy, provided by the bill for existing evils might be thought, still he hoped it would be thought a wise, humane, and necessary measure, He therefore moved their Lordships to agree to the second reading of this bill.

Lord *Brougham* said, that a more painful task could not have fallen to him than that which his sense of duty now urged him to perform—namely, to oppose this bill. He did not say, it was a painful task, because it might be the most unpopular course he could take, for that consideration had never influenced him in the discharge of what he felt to be his duty; nor because the second reading had been proposed by his noble and learned Friend, however much he might approve of the motives and principles upon which he had brought forward the measure; nor because it had been so strongly recommended by one of his high station, who had filled the most eminent place in the law, that therefore he might be supposed to regard everything his noble and learned Friend, said, would deter him from taking an opposite line of conduct; but because of the subject itself, and because he felt the very great difficulty of shutting the ear to such pathetic topics as his noble and learned Friend had urged, and of steeling the bosom to the best and most natural feelings of mankind. He was ready to admit, with his noble and learned Friend, that the law was harsh and cruel in its operation on those cases which had been stated by him, and also, that their small number was no guarantee that many more did not exist which had never seen the light. Another difficulty which he had to contend with, was the prejudice which would naturally arise in some minds against the man who would seem to interfere with the generous purposes of his noble and learned Friend, for whoever did so, would be liable not only to be charged with hardness of heart, but unwillingness of mind to remove the defects and harshness of the existing law. He trusted, however, that he should clear himself from the justice of any such charge as applied to him. He admitted that the bill was passed through the other House, with almost unexampled rapidity, and with wonderful majorities in its favour, but at the same time, there was very little legal authority in its support. The bill never had the advantage, which it was natural to expect it would have, of the support of the learned and experienced law officers of the Crown; he did not find that they bore any part in the debates on the bill; but, if they had any objection to it, they ought to have stated it, or if they approved of it, they should have said so. If, then, he could avoid opposing this bill, he had the strongest possible reasons for doing so, apart from the objectionable nature of the bill itself, which, while it professed to remove the existing evils of the law, would not meet them; it would apply itself only to a part of those evils, and it would open the door to such frightful changes in the whole of this country, and in the whole of the principles on which the law of husband and wife was founded—ay, and such innovations on those laws which had been hitherto regarded as the safeguard of families, and as securing the virtuousness of principle on which the education of children should be conducted, that he owned that he would not support it, if, by affording a remedy in instances of rare occurrence, a channel was to be opened through which the floods of immorality would be sure to overflow the character of the institution of marriage. His noble Friend had stated the evils of the present state of the law; he had shown how unjust the law with regard to the treatment and the custody of the offspring of the wife by the husband; he had shown how it had operated harshly on the wife; and he had pointed out instances in which that law might have entailed evil on the children, and then he contended that his bill must be accepted as a ready, because it would be a less evil than the evils pointed out. But there were many evils which the bill did not profess to remedy. Could anything be more harsh or cruel than that the wife's goods and chattels should be at the mercy of the husband, and that she might work and labour, and toil for an unkind father to support his family and children, while the husband repaid her with harshness and brutality, he all the time rioting and revelling in extravagance and dissipation, and squandering in the company of guilty paramours the produce of her industry? The law was silent to the complaints of such a woman, or if not silent, all it said was, that in the sweat of her brow she should eat her bread and not only so, but that in the sweat of her brow her husband should eat his bread, and spend the produce of her industry in insulting her by lavishing her property on his paramours. He had colourings and materials enough to make out a very strong case in illustration of the cruelty of the law, if he had the ability and genius of his noble and learned friend to pencil it and fill in the shadows. He knew that there were anomalies and a thousand contradictions in the marriage law; but the existence of those anomalies and contradictions should operate as so many warnings against the introduction of new anomalies and changes in that mariage law; for being driven on the shoals of anomaly by the gales of their feelings and the tide of prejudice, they would be in danger of making shipwreck on the rock on which their predecessors in legislation had split. Adultery was as much a crime in man as in woman; it was denounced by the laws of God in both, and equally reprobated by the laws of the land in principle, though not equally punished. If the wife made a slip and forfeited the allegiance to her husband which she swore when she took her marriage vow, an action for damages against her paramour might be instantly brought, and in that action the character of the woman was at immediate issue, although she was not prosecuted. The consequence not unfrequently was, that the character of a woman was sworn away; instances were known in which, by collusion between the husband and a pretended paramour, the character of the wife had been destroyed. All this could take place, and yet the wife had no defence; she was excluded from Westminster-hall, and, behind her back, by the principles of our jurisprudence her character was tried between the husband and the man called her paramour. But what was the case when the man was the guilty party? What legislation was there in favour of the wife? Did the woman feel no pang when she knew, that her husband committed adultery? Was not her pride, supposing her to have no feeling of a higher character, grievously touched? That feeling, he ventured to say, raged more furiously, if he might so speak, than all the pride which raged in the male sex, and made more havoc than among men, ay, a thousand times more than all the sentiments of honour, that ever could grate on man's heart. Was it then just, that in her sufferings she should have no remedy, no sufficient remedy but rather be left to the mockery and insult of her husband? The husband might pursue his course; he might refuse to live with his wife, unless she went to Doctors-commons and demanded a restitution of conjugal rights, which no woman of delicacy could well do. Again, if she wished for separation, she might get a divorce *a mensâ et thoro*, but she could not marry again. The husband, if he got a verdict in his favour, in the Ecclesiastical Court, would obtain almost as a matter of course a divorce from that House, which enabled him to marry again. Was the wife so treated? A wife had the greatest difficulty to obtain a separation in the case of adultery. There had been two cases only before that House in which such relief had been granted, the one being a case in which incest had been proved. the present state of the law was such as to bring out a passive resistance on the part of the sex, which felt, that they were not properly represented in the Legislature. Upon the whole it was safer and better for society and the marriage state for the comforts of the parties, and, above all, for their issue, that the father should have uncontrolled care of that issue, than that control should be shared as a matter of right with the mother. Having shown, that the law was not more oppressive to the wife in this than in other cases, he now came to consider whether the remedy proposed for the alleged evil was appropriate, and whether, while calculated only to mitigate that evil in a slight degree, it was not, at the same time, calculated to introduce infinitely greater evils than those which were complained of. In the first place he contended, that the bill under consideration did not apply a remedy to the evil which was complained of. His noble and learned Friend had said, that as the law stood at present, a husband living in adultery, and of the most profligate habits, was entitled to the exclusive possession of, and dominion over, his children. Very well; but did the bill provide any remedy for such a state of things? Nothing of the sort. The bill said, let the husband have undivided dominion over the children, let him take them where he willed, let him contaminate them, by placing them in the society of the worst of persons, taken from the stews or from prisons—welcome to do all this, said the bill; only let the wife, by means of a judge's order, see the children occasionally. But that was no remedy for the evil which was alleged, for the argument of his noble and learned Friend was, that the children were contaminated by the profligacy of one of the parents, while the other had no means of counteracting the mischief. The bill provided no remedy for that; it provided no remedy for nine-tenths of the evils of the case, and for the remaining tenth they were to have a change in the law which would inevitably lead to the most extensive alterations in the relations of the married state. His noble and learned Friend had not stated quite correctly what the law of the Court of Chancery was in cases of this description, for when that court had the guardianship of children, if there was profligacy on the part of the father, the judge would take care, that the mother should have sufficient opportunities of seeing them. He thought the Chancellor, in the case which had been quoted by his noble and learned Friend, had been misreported, for he was made to say, that unless the child knew of the profligacy of its parent there could be no remedy for the evil which was complained of. But the Chancellor could have said no such thing, for the case of "Branford and Wellesley" and the case of "Westbrook and Shelley" were opposed to such a doctrine. That, however, was immaterial. and the worst part of the evil was untouched by this bill. In passing to the evils to which this bill was calculated to give rise, he felt bound to say a few words on the title of the measure, and anything more fraudulent than that title was, he could not conceive. The bill was entitled, "an act for providing for the more easy access of parents to their children." Their Lordships would observe, that the word used was "parents" not "parent"; but for what reason was the plural used? The father had already free and full access to his children at all times, and the title ought to have been "an act for enabling the wife when living separate from the husband, to have access to her children," for the husband was not considered by the bill. Now keeping in view the fact, that the law in all cases was favourable to the rights of the husband, let their Lordships look what was provided by the bill. It provided, in the first place, that all cases of dispute in regard to children should come, not exclusively before the three equity judges, but that they should also be tried before any of the other fifteen judges.

Lord *Lyndhurst* proposed to confine the jurisdiction in cases arising under this bill to the three equity judges.

Lord *Brougham* said, that such a limitation took away one of the great objections to the measure. The judges when they were asked their opinions of the bill held up their thirty hands in deprecation of this part of the plan, and certainly the limitation which his noble and learned Friend proposed to make would remove one ground of complaint against the provisions of the measure. But what could their Lordships now think of the authority which his noble and learned Friend had given them in favour of the bill? The noble and learned Lord had stated, that it had gone through all its stages in the other House, with large majorities in its favour, and there had been as great majorities in favour of the jurisdiction of the whole eighteen judges as there had been in favour of any other part of the plan; yet his noble and learned Friend now gave up that portion of the bill as utterly untenable, and proposed to limit the number of judges to the three equity judges. Now, high as his respect was for the authority of the House of Commons, yet, when he found his noble and learned Friend giving up an important part of the measure which that House had sanctioned, he could not but feel that such a proceeding tended to weaken the confidence which he was willing to place in that assembly. Was this a trifling change which his noble and learned Friend proposed to make in the bill? Why, it was a change of the most sweeping description; for his noble and learned Friend proposed to diminish the number of judges before whom cases arising under the provisions of this bill were to be tried from eighteen to three. But what would be the effect of that change? By giving up fifteen judges, and leaving the whole causes to be tried by the three equity judges, his noble and learned Friend would introduce a great anomaly into the law, and create an evil of the most serious description. In the first place the three equity judges would have such an addition to their business, that they would be overloaded, and of all causes those relating to family quarrels regarding the custody of children were the longest and most complicated and most violently contested, because it was not money, but feelings that were concerned. Yet all those complicated causes were to be thrown upon the three equity judges. Then again, how did it happen that his noble and learned Friend confined his feelings to London and Westminster? Why did he not go into the provinces? This bill was confined to the mothers in the metropolis, and no consideration was given to Northumberland or to Cornwall, and to other distant parts of the Kingdom, for the alteration proposed would not allow causes relating to children to be tried at the assizes. It was only those mothers who were able to come up to Chancery who were to have a remedy for the evils which they complained of, in being separated from their children, and therefore there ought to have been another change in the title of the bill, and it ought to have been entitled an Act for enabling such wives only to apply to any of the three equity judges for permission to see their children. Again the bill would only allow the wife *toties quoties* to see her children, for she would have to go before the judge every time she wished to visit her offspring. Now, had their Lordships any idea of the nature of those causes which were tried in relation to the custody of children? They were of the most complicated and difficult kind, and ninety affidavits might be filed before an order was obtained. How was this to work? Could such a plan fail to increase the bitterness which existed, and would not each fresh application to the judge, while it gave rise to vast expense, tend only to embitter the feelings of the parents; But the carelessness with which the bill was framed, was truly remarkable. As it originally stood, a woman living in adultery would have had as easy access to her children as the most virtuous individual. That provision of the bill, however, had been altered, and a clause had been inserted, the provisions of which were not less mischievous, for, as the bill still stood, a woman caught in adultery could claim a right of access to her children; for cases of such a nature might happen, but which might, notwithstanding, be incapable of proof; and if not proved, then the bill would enable her to visit and associate with her children. He knew many cases where the act of adultery was certain, but where legal proof could not be given o the guilt of the wife, yet such a woman was to have a right to see her children by an application to one of the three judges appointed by the bill to take cognizance of cases relating to the custody of children. But what was the nature of the causes which would come before the three equity judges under the provisions of this bill? They were the most complicated and most difficult possible. The judge would have to go into all the previous history of the husband and wife. He would have to listen to all the statements which might be made by both parties; and to read the numerous affidavits which in causes of this description were usually filed, and in this manner go on a long and slippery way before he could arrive at any determination. But even when he had made up his mind on the merits of the case, he would then have to consider how often, at what time, and what place, and under what circumstances, the visits of the mother were to be made. What was to be the security, that the wife would not run away with the children? Would his noble and learned Friend send an officer of the court to be present at the interviews? No, his noble and learned Friend would not do so, because it would be said, that the presence of such an officer would prevent that familiar intercourse which might take place between the mother and child. But if there was to be no person, how would they prevent the mother from alienating the affections of the child from the father, from making representations tending to injure the father in the estimation of the child, and thus sowing the seeds of dissension and misery in the family? But all this complicated form of trial was to be gone through for one interview, and the same long and difficult process was to take place every month perhaps, or at least at every time the mother wished to visit her children. It might be said, however, that a general order should be issued, but that was hardly possible, for the circumstances might change in the interval, and the wife might no longer have a right tô visit her children. The bill assumed that the husband wanted exclusive possession of the children, and the consequences of such an assumption would be to create a feeling of exasperation on his part, and they might depend that, on every fresh application, he would resist the application and thus widen the breach betwixt the parties. The last and most important objection of all which he had to the bill was the inevitable mischiefs it would create, destructive of the comforts, and dangerous to the purity, of marriage life. If there was any one thing which more than another tended to protect the sanctity of the marriage vow, it was the love and affection which women bore to their children; and the question which in reality was raised by the present bill was, whether the mutual consent of both parties, husband and wife, ought to be a valid ground for divorce. It was from the knowledge which those parties had, that they could not easily get rid of each other, that many trifling inconveniences were passed over, which would otherwise assume the shape of the most tormenting evils. What could have a more powerful tendency to make a wife faithful than the knowledge that infidelity on her part would sever her connexion with her offspring? And he knew, that this knowledge did, even in cases where the wife was criminal, operate to postpone her elopement with her paramour. But would not this salutary influence against criminality be removed if the wife should be told, that by the shortsighted and one-sided humanity of their Lordships she might, when living apart from her husband, obtain access to her children? He knew there was a proviso in the bill, which in the case of the wife's elopement with a paramour, and the passing of a verdict against her, would debar her from the privilege of visiting her children; but might she not, without eloping, so conduct herself as to render her husband's life miserable, and thereby make him ready to consent to a separation? It, therefore, became their Lordships' serious duty to consider how far, by passing such a measure as the present, they would be giving encouragement to separations, a state dangerous to the virtue of married women, and how far they would be rendering reconciliations less probable than they were under the present state of the law. If a bill on the subject was to be passed at all, he would rather see a measure which would at once apply the axe to the root of the evil, and be safe from all those evils which he had pointed out as likely to follow from the present bill. Suppose it were enacted, that when the husband was separated from the wife on account of cruelty or adultery by verdict of a court of law, regulation should be made for the proper custody of the children; but, in such a case, he would have no *divisum imperium*, but he would take the custody of the children entirely from the guilty father, and transfer them to the care of the mother, or to such other person as, under the circumstances of the case, it might seem proper to name for that purpose. It might be matter for consideration whether such a provision should not be enacted. He repeated, that he was really concerned to be unable to meet his noble and learned Friend's complaint of the state of the law as it now stood with some remedy which should be adequate and safe, but he implored their Lordships not to be led away by the natural and laudable feelings to which his noble and learned Friend had appealed, but to consider how dangerous it would be to tamper with one of the most delicate and important principles of our law in one particular part, and with one particular limited and contracted view, without at the same time carrying their regards over the whole portion of their jurisprudence which related to the subject of marriage. Entertaining these objections to the bill, he felt bound to move, that it be read a second time that day three months.

The *Lord Chancellor* said, it was for their Lordships to consider whether or not the bill, with the alteration which the noble and learned Lord had signified his readiness to make, might not be shaped into a measure which would guard against the abuse of the power which as the law now stood the husband possessed, without at the same time interfering with the relative obligations of husband and wife, or weakening that influence which the love of her offspring had on the conduct of a woman. All that they could give was occasional access to the children under the directions of the court, and with such guards as were necessary to be introduced in order to prevent it from being abused. That would be a great object for a mother to obtain. They were, however, not to consider alone the gratification which it was likely to afford her. They should also consider whether, looking at the course of life she was likely to lead, they were doing her a kindness in permitting her to see her children. He thought it extremely doubtful. He thought if the husband were to feel that there was a power of control residing somewhere, he would not compel the wife to have recourse to an application for its exercise in her behalf. By the advice of friends and interference of relatives, amicable arrangements would, no doubt, be made, and the influence which love of the children begets would not be diminished. In order, however, to effect this object the power should be sparingly and cautiously exercised. It should not be exercised in cases where there was misconduct upon the part of the wife, but only where she was irreproachable, and where the husband severely and cruelly exercised the power given him by the law. All the cases put forward by his noble and learned Friend were upon one side. Their Lordships should look at the other side—at the case of a wife without reproach, and a brutal husband. Under such circumstances, was it a wholesome state of the law to allow the husband to put his wife in this predicament—either to submit to his brutal cruelty, or for ever to be separated from her husband? To meet such cases, he thought there ought to be a power of control lodged somewhere. It ought, however, as he said before, to be sparingly exercised. Under due restrictions, the exercise of the power would have a beneficial effect upon the husband, and would not interfere with the ordinary relation of husband and wife. It was upon these grounds, but not without great doubt and difficulty, that he had brought himself to support the bill. As he was sure that the power might be given to the judges of the Courts of Equity without incurring the risk of varying practice and conflicting orders, he thought their Lordships might safely allow the bill to be read a second time, having made in it the alteration proposed by his noble and learned Friend.

Lord *Wynford* said, that his noble and learned Friend, in introducing this measure to their Lordships, had never considered the hardship which it would inflict upon husbands, or the ruin which it would entail upon families. He had contented himself with pointing out the hardships upon the wife. The duty which was cast by law upon the husband of taking care of the children and attending to their education he never could perform if the present bill were allowed to pass into a law, ruining half the families in the kingdom, and corrupting the morals of the young generation. How was it possible for the husband to perform the duty cast upon him, if his efforts were neutralized and counteracted by the influence of the wife? The bill, too, afforded something like an encouragement to adultery. For, in cases where the adultery had not been followed up by conviction, either by a verdict for damages in a court of law, or a judgment in Doctors' Commons, which took place in some of the worst cases of adultery which he (Lord Wynford) had ever known, the wife was empowered by the bill to appeal from judge to judge, and to bring forward charges upon charges, until, ultimately, perhaps, she succeeded in gaining access to her children. By the bill the judges would have a burden thrown upon them which their other duties rendered them wholly unable to bear. The husband, besides, would be kept in a constant state of litigation from one end of the year to the other, the wife contending upon each successive application that the case has assumed a different shape, and that a new state of circumstances had arisen. Where, he (Lord Wynford) would ask, was all the expense to come from? Surely it could not come from the wife, who had no property, but must come ultimately out of the estate of the children. The bill contained no provision on the subject, which was another objection to it. By constant litigation, and the bringing forward of a series of fresh charges, the expenses would wholly swallow up the property, and the children, for whom so much affection was pretended, would be irretrievably ruined. Let the House look at the appeals which the bill gave from judge to judge, and, also, to their Lordships' House. For when their Lordships allowed appeals in matters of 20*l.* value, they would not refuse it in such important cases as the custody of children. As all the swearing was to be upon paper, and not face to face, he was sure, that there would be hardly a single case in which perjury would not be committed. There were cases in which the greatest injustice would be done to husbands by the bill. Adultery might be committed in many cases in which the husband would be the only witness, and, therefore, could neither obtain a verdict for damages in a court of law, nor a judgment in Doctors' Commons. Their Lordships would, probably, recollect a case which occurred in Hampshire, in which the husband caught his wife in the arms of a servant. He, of course, could have no remedy, and yet this chaste and virtuous lady, under the provisions of the present bill, would be entitled to make application to a judge for access to her children. He should vote for the amendment, considering the bill to be most imperfect, for he thought it would do a great deal of evil, and, in his opinion, was capable of producing no good.

The House divided: Content 9; Not content 11: Majority 2.

Bill thrown out.

The following protest was entered against the rejection of the Infants' Custody Bill:—

"Dissentient,

"First—Because nature and reason point out the mother as the proper guardian of her infant child, and to enable a profligate, tyrannical, or irritated husband to deny her, at his sole and uncontrolled caprice, all access to her children, seems to me contrary to justice, revolting to humanity, and destructive of those maternal and filial affections which are among the best and surest cements of society.

"Secondly—Because, although it may be true, as alleged in debate, that women are by the governing principle of the law of England subjected in various other matters affecting their property, character, and happiness, to great and unequal hardships, such consideration furnishes, in my judgment, very inconclusive grounds for refusing them relief from a wrong, which the sound discretion of a judge might, without injury to any one, equitably and promptly redress.

"Thirdly—Because, whatever was exceptionable in the time, form, or mode of relief proposed in the bill, might have been corrected in the committee, and I was unwilling, before such correction of supposed anomalies and defects in the details had been attempted, to forego on account of them an object so just, important, and salutary, as the protection of that intercourse which Nature herself seems to enjoin between a parent and her child from all capricious and vindictive interruption.

(Signed) "VASSALL HOLLAND.
"LYNDHURST.
"July 30, 1838. "SUTHERLAND."

HOUSE OF COMMONS,

Monday, July 30, 1838.

MINUTES.] Bills. Read a second time:—Militia Ballot Suspension; Detatched Portions of Counties (Ireland).—Read a second time:—War Office; Transfer of Funds; Conveyance of Estates.—Read a third time:—Post-Office; Customs; Joint Stock Banks.

Petitions presented. By Mr. BROTHERTON, from Salford, in favour of Mr. Owen's system.—By Mr. GIBSON, from Ipswich, for increased encouragement to the Established Church.—By Mr. HINDLEY, from Ashton-under-Line, against the sanction of Idolatrous practices in India.—By Viscount SANDON, from Wesleyan Methodists Congregations in Liverpool, and by Mr. GLADSTONE, from Wesleyan Methodists of Newark, to the same effect.—By Mr. SHAW, from Dublin, against the Spirit Licences (Ireland) Bill.

BRIMSTONE AT NAPLES.] Lord *Sandon* wished to ask his right hon. friend the President of the Board of Trade a question relative to the commerce of the country. Negotiations had been pending some time between the Government of this country and that of Naples respecting the high duty imposed by this Government on Neapolitan oil in consequence of the high duty imposed by the Neapolitan Government on fish imported from our colonies. In order to do further injury to our commerce, the Neapolitan Government had recently confided the monopoly of brimstone to a French company. He rose to ask his right hon. Friend whether he was in possession of a copy of the decree by which that monopoly was established, and if he was, whether he would have any objection to lay it on the table?

Mr. *P. Thomson* said, that his noble friend, in putting a question to him, had endeavoured to raise an argument. He did not, however, agree with him as to his argument; for what had been done by the Government of Naples as to the sulphur, had nothing whatever to do with the oil question. The decree of the Neapolitan Government on the subject of sulphur was directed quite as much against the French Government as against ours. With respect to the question which his noble Friend had put to him, he had to reply, that it was only two or three days ago that he was officially made acquainted with the fact that the Neapolitan Government had entered into the unwise proceeding of raising sulphur in Sicily under a monopoly. As soon as he should receive an official copy of the contract which that Government had made, he would lay it on the table of the House. He had already seen a copy of it which had been privately furnished him; and he had submitted it to the law officers of the Crown for the purpose of ascertaining whether the Neapolitan Government could enter into such a contract, conformably to the treaties into which it had previously entered with us. If it could not, there was an end to the question; if it could, we could only try what we could effect by good offices.

CIVIL LIST ACTS.] The House in Committee on the Civil List Acts.

The *Chancellor of the Exchequer* rose for the purpose of bringing under the consideration of the House what he hoped would prove a final and satisfactory settlement on the subject of pensions, and he approached that question on the present occasion with a deep feeling of interest and anxiety, and with a fervent hope that the House would accede unanimously to the resolutions with which he intended to conclude. The different turns which the debate took on the Pension List at the time when it occurred were too fresh in the memory of the House to require him to detail them at length and were besides set out in the report at present upon the table. It was therefore only necessary for him to state,that in the month of December last a committee was appointed to inquire into thissubject, a committee which included the names of several gentlemen who were accustomed to take a strict and economical view of the pensions on the civil list, and who formed collectively a tribunal that was perfectly impartial and independent of all control. When he said that the committee was impartial, he did not mean to deny, that it was constituted of gentlemen of one particular view in politics, but that had been no fault of his, for he had been anxious to secure the services of several hon. and right hon. Gentlemen opposite, but they, having opposed the inquiry altogether, felt that they should be acting inconsistently if they sat upon the committee which was to conduct that inquiry, and therefore declined to become members of it. That determination upon their part deprived him of the services of several gentlemen on whose authority both the House and himself would have placed great reliance. The Committee, however, had met and sat 35 days. It was attended by the great bulk of the Members appointed to serve on it, and he rejoiced that in consequence of a recent regulation of the House, not only the attendance of members, but also the different votes which they had given, were exhibited in the report; indeed, he might say, that the report was agreed to unanimously, for 16 Members were present when it was agreed to, and, looking at the names of the members who were absent and at the votes which they had given on the different divisions at which they had been present, he had no hesitation in saying, that had they been present, they also would have agreed in the report with the same unanimity as those did who were present. He thought also that when the House read over the names of the members who agreed to the report, it would be of opinion that the public was fairly represented in that committee. He must now inform the House, that as soon as the committee was appointed, he had addressed to every individual on the pension list a circular letter, stating that he should be happy to receive from them any communication with which they might please to honour him as to the origin of their pensions, and as to the necessity for the continuance of them. He had made this as a private communication, because he felt that he had no right, as the House had determined to afford an inquiry to place any limit upon that inquiry. He believed, that there was not one individual to whom that circular was addressed who did not consider it as written with a view to do justice to them on the one hand, and to satisfy the just expectations of the public on the other. Early in the month of February it was thought necessary, with a view of facilitating the business of the committee, to classify the pensions. The first question which the committee had to consider was, whether they should call for a justification of those pensions which appeared to have been granted as rewards for services. On this there were several divisions, but not on the merits of the cases, but as to the resolution to which the committee should come—namely, whether they should put a pension in class No. 1 where those pensions were put on which no doubt then existed, but which were to be open to further evidence, or in class No. 2, where those pensions were placed which were expressly reserved for inquiry at a future time. After having completed the first branch of the inquiry, the committee resumed the examination of the pensions reserved for further consideration, and went through them with the utmost industry and attention. Indeed, he must take the liberty of saying on behalf of the committee that nothing could have been more industrious or sedulous than their discharge of the very delicate duties intrusted to them. Having gone through the whole list, they proceeded to classify the pensions according to the system detailed in page 13, of the report under the heads of the services to which they were referable, distinguishing army, navy, and judicial pensions, as well as those connected with the departments of the civil service, with literature and the arts, with private services rendered the Royal family, with the exercise of the royal bounty and charity, with compensations awarded for forfeited estates, and with miscellaneous matters not included in those designations. It was true that some pensions could not be strictly said to have been granted in return for the services mentioned above, but they bore more or less relation to them. He believed he might say, that the classification having been made, the committee had acted most fairly and correctly in the investigation of the individual cases. They had considered all the services rendered by the pensioner himself and his family which could be taken as justifying the pensions, and he must say with great pride that the list of services contained in the appendix did the greatest honour to those connected with the various branches of the public service, and even if no other result had flowed from the inquiry (though it had most important and useful results), it would at least have produced a valuable memorial of the merits of public servants, which could not be unacceptable either to the House or the public. He could refer, if it would not be improper to occupy too long the attention of the committee, to various classes of services, which he could wish to see brought before the public. He had pleasure in saying, now that the inquiry was completed, that nothing had passed to cause him to regret in the slightest degree the step he had taken in proposing it. On the contrary, he might appeal to those Members of the Committee who had conducted the examination, who were the least disposed to approve of the pension list, to say whether many of the objections they originally entertained to it had not been removed in the progress of the inquiry, and whether the suspicion of abuse that had existed was not, to the honour of the pensioners themselves and of the various Governments who had administered this branch of the Royal prerogative, materially lessened, and in the pensions of recent date entirely removed. If such had been the result, if a branch of the public expenditure to which suspicion, jealousy, and reproach formerly attached, had been cleared from these imputations by a free and honest examination, surely the service thus rendered was most imporant to the public, and to the individuals themselves, who had beensubject d to gr at and unmerited reproach. He should not occupy the attention of the Committee, more especially as he hoped there would be no difference of opinion on this subject, with any prolonged examination of the various cases, but, he could not avoid referring to one or two in order to show the benefits that had resulted from the inquiry. There was no part of the subject which had attracted more censure than the pensions given to foreigners, inasmuch as that was thought to be a diversion of the public funds from their legitimate use. If anything could add to the suspicion and reproach thus engendered, it would be the circumstance of the foreigner being a lady. There were two foreign ladies on the list, relative to whose claims the public had no opportunity of judging before the inquiry was instituted, who bore the illustrious name of Biron. It had been found in this case that the grant of the pension, so far from affording ground for reproach, merited the warmest approbation. The ladies were daughters of the late Marèchal Biron. When the celebrated Lord Rodney, a short time before he proceeded to his command in the West Indies, was residing at Paris, being in circumstances of great pecuniary embarrassment, he was arrested for debt, and thereby prevented from discharging his professional duties. Marèchal Biron, hearing of the fact, and feeling that it would be unworthy of a great nation to deprive a gallant officer, though an enemy, of the opportunity of performing his duty to his country, stepped forward and paid the amount of the debt. Lord Rodney was thus allowed to return to this country, where he was appointed to a command in the West Indies, and shortly afterward met the French fleet in that memorable battle by which he so much signalized himself, and achieved so great a triumph for Britain. Many years after this, when the calamities of the French revolution had passed, the family of Marèchal Biron were residing, poor and defenceless, in London. When his Majesty George the 3rd. was informed of their condition, the Monarch sent for them, and acquainted them that he felt England owed a debt of obligation to Marèchal Biron, and granted the pension. He need not say that a pension more honourably merited as the tribute of a nation's gratitude for services done to the country over which the donor ruled could not possibly exist.

Thus it turned out that a pension than which none might appear more open to censure had been found worthy of the greatest praise. Of the various communications laid before the committee there were many which did the greatest honour to those who had made them, and none more so than the letter he should now take the liberty of reading, which would be found in the sixth page. It was from the daughter of General Carey, who fell while commanding the troops of his Majesty, in the West Indies. The pension, he would merely premise, was one of those which might seem most open to objection, and respecting which there was no document in any public office that could give the wished-for information. It was as follows:—

"Vienna January 11, 1838.

"Sir,—Living, on account of the smallness of my income, in the most retired manner at the above place, I have nothing to offer in justification of the liberty I take in addressing you but the information I have received through the medium of the newspapers, that all of that despised and degraded class called pensioners are desired to send to you, Sir, as Chancellor of the Exchequer, an account of their several claims to the pensions they have hitherto received. Taking it then for granted that I am rightly informed, I beg your patience to the enforced recital. My father the hon. General Lucius Ferdinand Carey, commanded at the taking of the Island of St. Lucia from the French, in the year 1780, and died of his wounds on the day of its capture.

"The pension which was granted to his daughters was not obtained through the favour of any Minister, but was given by the voice of Parliament, and the consent of our ever-respected Sovereign George the 3rd.; it consisted of 80*l*. each, and was bestowed as some small remuneration for the incalculable evils which fell upon a family of infant daughters by the loss of a father just as he became able to provide for them—by the loss of a father's protection and all the comforts of a father's house; nor did the wide-spreading evil end here; the neglected, almost as if (by high and rich connections) unacknowledged, children, in process of time became patronless young women without friends, protector, or introduction; and, to make the measure of their affliction quite full, were deprived of their rank as viscount's daughters by the premature death of their parent, and left to wander about the world in helpless degradation, and something nearly allied to want. I must not, however, suffer this melancholy enumeration to make me forget that which I must ever remember with gratitude—viz., that this pension, which in these dear times furnishes me with little more than daily bread, and obliges me, to obtain that, to live in banishment, was yet the means of procuring me that religious and solid education adapted to my fortunes, which has enabled me to bear up against all the sorrows of them. I have, indeed, enjoyed it long; perhaps the gentlemen of the committee will think too long; but that has been the will of God, and not my fault; and it is true that, as it is my only resource, I should be glad to retain it, if I can be allowed so to do with honour and without reproach, and to receive it with that dignified thankfulness with which the daughter of an usefully brave British officer may accept a national testimony of her father's deserts; but if this cannot be, and his services are considered as having been long remunerated, why then, Sir, I can cheerfully resign that which I shall hope may lessen the distress of some younger and weaker child of affliction; and being, by God's blessing, able, both in body and mind, to seek my own subsistence in the education of the children of some more fortunate family, as I was obliged to do in Mr. Pitt's time, when the pensions were at times four, five, or six quarters in arrears, I may, perhaps, find an answer to the quarterly question of my mind, whether such wages as I should then receive for my honest service, were not more honourable than the degrading reception of a pension so grudgingly bestowed. Leaving this weighty matter, under your sanction, in the hands and choice of the gentlemen of the committee, I beg leave to subscribe myself, Sir, your most obedient humble servant,

"LAVINIA MATILDA CAREY MORTIMER,
"Aged 67."

Would any one deny, that this letter furnished a beautiful proof how nobly the daughter of a British officer could assert her claim to the bounty of the nation—how nobly and proudly she could speak of his services? This was not the only commendable letter that had proceeded from some who, before the inquiry, were considered to belong to a class of degraded persons; and the publication of these documents in the report, was well calculated to rescue them from unmerited reproach. A similar letter had been received from the widow of the late gallant Sir Home Popham, admirable for the calm and dispassionate, though earnest manner, in which it referred to his services. The letter concluded in these words:—

"I do not undervalue, by any means, the pecuniary advantages of the pension; with my family and my wants that were impossible: have I not, ere this, borne heavier privations? and for my country! I have. But I do value high, and above all, the touching testimony to the merits and to the memory of Sir Home Popham borne in the continuance of that pension by a grateful country, ministered by a Royal hand to his widow, and that because he was as true an officer as ever left a widow in a nation's care."

He might multiply instances in which the publicity given to services hitherto not generally known, would dispel the delusion that existed on this subject more, perhaps, than on any other question which had engaged the public attention. It was not merely in the naval or military professions that brilliant services had been performed which fully entitled those who rendered them to the public gratitude, for in the civil departments of administration, pensions had been earned by services as important as any that had been performed on the field of battle. He had alluded, on a former occasion, and he could not avoid doing so again, to the case of his lately deceased friend, Colonel Stewart, who was not more distinguished for his military than for his civil services, and who might be said to have perished in the service of his country as truly as if he had died in battle. The acknowledgment of the public gratitude, in the shape of a pension to his surviving daughter, was not more just than in the case of pensions connected with the names of Wellington, Hill, Beresford, and Lynedoch. Services performed in the humbler branches of administration were not to be overlooked more than the great actions of those who had filled a high place in the eye of their country and the world. Of this class, were those of Mr. Cumming, of the India Board, and Colonel Edwards, of the Colonial-office, who also might be said to have perished in the public service. Such, too, were those of the rev. Mr. Proctor, mentioned at page 83, to whose widow a pension had been granted. The Forest of Dean was an extraparochial district, and had been left without a provision for the religious and moral instruction of the inhabitants. Mr. Proctor devoted much of his time and labour to an unrequited discharge of professional duty among them, as was stated with great beauty and simplicity by his widow whose letter would be found in the report. To the care of the inhabitants of the forest he sacrificed his health and time, and this pension was given to his widow as a tribute to his merits. Nothing could dispel more effectually than these cases the suspicion of public or private corruption, or prove more satisfactorily that the administration of the Royal bounty had been, on the whole, equitable and becoming; and, therefore, he said, that the publication of their details would be a service to the pensioners and the public. He had stated, when doubts were expressed as to the course that might be taken by the committee, that if he could imagine the consequence of appointing it would be the recommendation of any act of injustice, he would be as adverse to it as any one could be; but that he had confidence that a Committee of that House would conduct the inquiry, not only with strict fidelity to the public, but with the greatest sympathy and consideration for all parties concerned. He must say, that the result of the examination had fully confirmed those anticipations. It had been insinuated with regard to those pensions that had been abandoned by their holders, that there was something disingenuous in the reference made to them in the Report. It had been said, that Lord Auckland, Mr. Drummond, and Lord Elphinstone, who resigned their pensions on being appointed to the offices they now filled, had, in point of fact, only done so under the pressure of the examination of the Committee. Never had there been a greater misstatement, to use no stronger term. Lord Auckland had resigned his pension on his appointment to the office of President of the Board of Trade, formerly filled by him; Mr. Drummond had given up his when appointed to his situation in the Irish Government; and Lord Elphinstone had abandoned his when he was made governor of Madras. Others had subsequently surrendered their pensions. But he must say he thought it would not be just or generous to say of the individuals who had thus surrendered, that what they did was done under apprehension of this examination. He knew, that previously many persons holding pensions were withheld from surrendering by the apprehension, lest if they did so they might be considered as throwing discredit on the motives of those who did not. But when the Committee was appointed, it was immediately felt that Parliament having sanctioned the principle of inquiry, there no longer existed any reason why they should not surrender, which they accordingly did. This was undoubtedly the reason of surrender with some. Another point to which he wished to call attention was this:—The Committee had considered with respect to a certain class of pensions, that although no case might be made out for the withdrawal of the pension, yet the circumstances of the parties made the continuance of the charge of their pensions on the public no longer necessary. These pensions had been originally conferred, not for services, but out of the royal bounty, in consideration of the impoverished circumstances in which the parties were then involved, and which no longer existed. The Committee thought, that where such was the case the pension should cease and determine. And it was only right to observe, that many persons had acted on this principle. Thus, Lord Sidmouth, on becoming entitled by bequest to a large property, immediately resigned the pension he enjoyed. On the same principle the late Lord Farnborough, Mr. Moore, Mr. Marsden, and Mr. Charles Bathurst, had surrendered their pensions. The same had been done by several others, and among the rest the Duchess of Newcastle had some years ago voluntarily parted with her pension. Another class was that of pensions which the Committee recommended should be suspended during the continuance of the present circumstances of the holders, but they thought, that the contingent reversion of those pensions—contingent upon the event of a change of those circumstances, that was to say—should be preserved to the parties, but that only on the responsibility of Government and if absolutely necessary. The third class was the reverse of the former, and comprehended many persons to whom the Committee were of opinion the existing pensions should be continued for the present, but in which the term of the original grant should be limited to another, and generally a shorter period. The last class was one through which the Committee had gone with great reluctance, as it comprised those cases in which they thought it expedient that the pensions should altogether cease. But the class was not a numerous one. Indeed, there were but very few names on it. The groundwork on which these parties were thus classed was, that their pensions should hereafter cease, and undoubtedly he could have wished, and the same was the feeling of the Committee, that the result of the examination had been not only to limit the class, but to dispense with it altogether. But if, under all the circumstances, the Committee had abstained from making this recommendation to the House, they would not have possessed any claim to the confidence either of the House or of the public, and their report, without this portion of it, instead of having afforded any grounds for the settlement of the question, would only have provided new elements of reproach, that which they called a settlement of the question being in reality no such thing. Before he sat down he thought he ought to state to the House what had taken him and the Committee wholly by surprise—he meant the state of the law respecting pensions. The law was, that the Crown was debarred from making grants of pensions which should be binding on their successors to the throne. This was enacted by a statute of Anne. But that statute did not extend to Scotland and Ireland, and, consequently, the Crown had been accustomed to exert the power of granting pensions by patent, payable out of the Irish and Scotch revenues—in Ireland to a large extent, in Scotland to a small extent. These grants the Committee, to their surprise, found were not only binding on the Crown, but every way valid in point of law. For when they first discovered the fact, they took the joint opinion of the law officers of the Crown, both of England, Ireland, and Scotland, and thence ascertained the law to have been at the time of these grants as he had stated. Now, with respect to this, the Committee could not bring into question the existing law, and therefore they concluded that pensions founded on patent should be respected, and they would not go further into the examination of them. He wished now to press upon the House the consideration of what would be the practical working of the new arrangements recommended by the Committee in the savings which would be gained on the whole Pension list at the end of a certain period of years. The House would find this statement at the beginning of the report, and he had every reason to believe it correct, on the authority of Mr. Finlaison, a gentleman who was employed to calculate the Government annuities. Taking into account new pensions that might be granted, the *maximum* of saving would amount in the month of June of the year 1839 to 4,935*l.* per annum; in 1844 the savings, or decrease per annum of the pensions below the present amount, to 34,334*l.*; in 1849, to 67,295*l.*,; in 1854, to 90,904*l.*, and the savings in twenty years from this time, or 1858, would amount to 104,874*l.* per annum on the amount in 1839.

The pension list of that period would be 106,023*l.* less in amount than at present, and 130,523*l.* less than the Pension-list in 1830. The whole charge in 1858 would not exceed 34,877*l.* This, he must beg it to be observed, was the *maximum* amount of the savings, and that amount was given owing to the great difficulty of arriving at precision, in consequence of the ages of the parties being unknown. And while on this point he must beg to throw from himself on the Committee the responsibility of having instituted the inquiry respecting ages of parties, against which so much had been said and written. He was innocent of this charge, especially so far as referred to the cases of ladies. He threw from himself therefore the responsibility of this step to which he only agreed when he found from the chairman of the Committee that it was essential to the whole investigation that this inquiry should take place. He could assure the House that they had found extraordinary difficulty in arriving at these ages. Some cases presented the most startling anomalies. In one case the age of the pensioner was represented as considerably less than the number of years during which the party had been in receipt of the pension. Such were the difficulties they had to contend with in the returns of ages: but it was not merely in these returns that such difficulties were found; for the gentlemen who made up these returns had stated to him that cases of a similar nature occurred in the office of the commissioners for the purchase of Government annuities. A lady desirous of purchasing had given her age as forty—no, thirty-nine, for thirty-nine he believed was the more popular age than forty—on which the clerk said, "Four years ago you gave your age as thirty-nine." She said, "I know that; but though I know that if set down as thirty-nine I shall give more, yet the public will gain so much the more, and at all events it is no business of yours." In point of fact, however, the age was of no great consequence to the public, the death of the parties being the important element. But he could not set down without referring to the recommendations of the Committee at the conclusion of the report. These he thought were of considerable importance, and they were agreed to unanimously by the Committee, and as frankly adopted by Government. They would prove, he hoped, additional checks and safeguards on the expenditure in pensions. The first recommendation was very important, but its importance could only be fully estimated by one who had served on the Committee. The recommendation was, that in case of all future civil list pensions, the warrant, or instrument of appointment, should contain on the face of it the cause for which the pension was conferred. What could be more simple than to state on the face of the warrant the grounds on which the pension was granted? And if that principle had been proceeded on in regard to all the old pensions, as it had been in the cases of perhaps some half dozen, much of the obloquy with which the pension list and pensioners had been branded would never have arisen; and if a Committee had sat to examine into the subject, they would have accomplished the object in as many hours as they lately spent days. The second recommendation was, that where pensions were granted for services to persons other than the individual by whom the services were rendered, care should be taken, if these pensions were granted for younger lives, that the amount of the pension should be reduced so as to prevent any undue increase of charge to the public. The next recommendation was, that where pensions were *bonâ fide* gifts of the royal bounty in relief of distress, not in reward of services or of literary or scientific merits, such pensions should be granted with the distinct understanding that they should cease when the circumstances of the parties no longer required their continuance. The next recommendation was not important in point of money, but possessed considerable constitutional importance. That recommendation which was the fourth, said that for the future the mere combination of poverty and a peerage should not without service form the groundwork of a pension. He thought it was important to the honour and credit of the Peers that this should be acted upon; for in his opinion nothing could be more detrimental to the influence of the peerage than any appearance of the Crown's acting upon the principle that the combination of poverty with hereditary rank constituted a claim to a pension. At the same time the Committee thought it would be most unjust to deprive the peerage of any of the ordinary inducements to public services which all other classes were entitled to claim; but they did not think it fitting to place the Peers in a situation to which the usage is attached that merely hereditary rank if held with a reduced fortune should give a claim to a public pension. That was the opinion of the Committee, and in that opinion Her Majesty's Government entirely coincided. The fifth resolution merely extended to Scotland and Ireland, what had been already done in England, with respect to limiting the re-grant of civil list pensions. Lastly the Committee recommended that all pensions to be granted should be held liable to deduction or suspension, in the event of the parties being appointed to office in the public service, thus rendering the continuance of the pensions unnecessary either for a time or permanently. This had been done in some cases of pensions submitted to the Committee. He did not say, that it ought to be done in all those cases; but they were all held liable to the application of that principle. He should only advert to one point more. Now that this inquiry was complete, he thought he might say, without presumption, that the Government had endeavoured to procure for the Committee whatever they might require, and that no effort had been employed on their part to create delusion or to check the Committee in the full exercise of their discretion. He would say that the Government had done all for the Committee they could do. The Committee had recommended that the question should be finally settled by placing on the consolidated fund all pensions which might be regranted subsequent to this examination. The Committee had made this recommendation, because they did not think it rested with them to grant or regrant any pensions, but that they ought to be granted by funds set apart for that purpose by Parliament, but distributed at the discretion of the Crown. All, then, that the House had to decide was whether, on the information which he had given from the report, they were prepared to grant her Majesty a sufficient sum to enable her to regrant these pensions. But he must entreat the House and the public, if they wished to obtain full information on the subject, to turn to the report and the appendix. They had heard remarks put forth tending to create great distrust and jealousy of the proceedings of this Committee. He would entreat them therefore to compare the allegations which had been made on the subject of the pension list with the report of the Committee, and see whether or not on public grounds they were not justified in making this examination, and whether the result was not such as must be satisfactory to all parties. He moved "That it is expedient that provision be made out of the consolidated fund to defray the charge of pensions granted prior to the accession of her Majesty."

Sir *C. Lemon* found, that in all previous inquiries of this kind the pensions granted on the revenues of the Duchy of Cornwall, were always made the first branch of inquiry. In 1689 an investigation of this kind took place, in which it appeared that the Bishop of Exeter had a pension of 30*l.* a-year on those revenues; the Earl of Bath 3,000*l.* a-year; Sir Peter Killigrew the same sum. In 1694 the pension list amounted to 5,630*l.* altogether. He was quite aware that his right hon. Friend the Chancellor of the Exchequer, when he laid on the table the bill for the better administration of the revenues of the Duchy of Cornwall which he had promised, would have an opportunity of clearing up that mystery which had often been mentioned in that House as hanging over those revenues; he was aware of this, and he presumed that his right hon. Friend intended to put off till that opportunity the supplying this omission in his present speech.

The *Chancellor of the Exchequer:* It was no omission, the Committee declined entering on that subject.

Mr. *Warburton* thought hon. Members ought to have had the report in their hands, at least a sufficient time to allow the paper to dry. He had not had half an hour to make himself master of the recommendations of the Committee, and to look for the different claims of the different classes of pensioners on whose cases they were about to resolve. If any hon. Member would support him, he would move the adjournment of the further consideration of this matter until such a day as might be suitable.

Sir *E. Wilmot*, in excusing himself for not having attended the Committee, said, that shortly after they had commenced their sittings he was taken ill and confined to bed for a fortnight, and that, on recovering, he would have resumed his attendance, but that he did not wish to vote for a report of which he could have known nothing, and which was then prepared.

Sir *R. Peel* begged to say, without entering into a discussion on the merits of the proposal of the right hon. Gentleman the Chancellor of the Exchequer, that he still retained all the opinions which he had before expressed upon the subject. He thought it would have been infinitely better, as they were about effectually to prevent any future abuse, and place the Pension List upon a new footing, had the principle of secession hitherto pursued on the demise of the Crown been adhered to. Even though that principle had not been adopted, he thought it would have been better, when the opportunity presented itself of revising those grants, that the inquiry should have been conducted by the Crown, as likely to be conducted with more justice and consideration than it could possibly be by a Committee. He had not the slightest doubt that this Committee had faithfully and honestly discharged its obligations to the country, while it dispassionately and fairly considered individual claims. His objection was not so much to the proceedings of the Committee as to the original constitution of it. There were various reasons which would make him distrust individual claims; but if he entered upon that question, he would be liable to the objection he was urging against the Committee. He was bound to say, however, that he could not understand the grounds upon which, in some instances, the pensions had been continued, and in others discontinued. He was afraid that such a consequence would inevitably flow from the circumstance, that while in some cases the number of Gentlemen, on the Committee, for and against, being equally balanced, it remained with the chairman to decide; in others there was a large majority, although they might be cases perfectly analogous. Thus, as it appeared to him, former decisions were at variance with decisions subsequently come to. He must say, therefore, that he could not acquiesce in the withdrawal of those pensions. He did not feel himself at liberty to enter into the particulars of those cases; at the same time, were he to do so, it would not be with any desire to make any charge against the Committee. The consequence he had referred to was, he conceived, almost inevitable in dealing with delicate questions of this kind. The right hon. Gentleman, in the conclusion of his speech, said, that the parties receiving pensions, would still look to the Crown as the authority by which they so received them. Now, if the Committee had thought proper to continue every pension on the list, surely no one could say, that it was the Crown which had decided that they should be granted. Had the inquiry been conducted by the Treasury, although the Chancellor of the Exchequer as an adviser of the Crown would have had the power to recommend the continuance of pensions, in all which cases, no doubt, the Crown would have granted them, yet the party receiving the pension would still have to acknowledge that it was to the liberality of the Crown it owed the continuance of it. In this case it was very different. Had the Chancellor of the Exchequer, for instance, advised a certain pension to be continued, it would be, or might be, overruled by the Committee, contrary to his sense of justice, or at least of enlarged liberality. On the other hand, those parties whose pensions were withdrawn, must feel that they were not withdrawn by the deliberate act of the Crown, but by the House of Commons, or rather a portion of the House of Commons, overruling the opinion of the Minister of the Crown. He therefore could not concur in the proposal; and he was very much afraid that the opinion of the pensioners would, inevitably be, that their claims had been confirmed or rejected, not by the authority or will of the Crown, but according as their several cases happened to make a favourable or unfavourable impression on the Committee.

Mr. *A. Sandford* having upon all former occasions given his support to propositions for the appointment of a Committee of this kind, now felt bound to state, that the result of the inquiry confirmed his opinion as to the propriety of instituting such an investigation. He was now more strongly convinced than ever, that the investigation in every sense of the word was most correct and proper, not only as regarded the public but the pensioners themselves. He thought, that the report and the appendix would have a powerful effect in disabusing the public mind as to the manner in which these pensions had been given. It was certainly satisfactory to hear, that the right hon. Baronet did not accuse the Committee of any wilful injustice. All that the right hon. Baronet said was, that he thought the investigation would perhaps have been conducted with more justice by the Treasury than it could possibly be by a Committee of the House of Commons. He (Mr. Sandford) wished that circumstances would have permitted the Committee to have placed their report in the hands of the House for a longer time before the present discussion arose; but that was impossible. He would only add, that the Committee had endeavoured as far as possible to carry out the principle upon which it was appointed, and so to conduct the inquiry as to do at once full justice to the public, and to the parties whose names were found upon the Pension-list. It was not without regret, that one single pension had been removed, and it was certainly very gratifying to him, and, he believed, to the other Members of the Committee also, to find upon minute investigation that the great mass of persons whose names were upon the list had a strong claim for the pensions they received.

Resolution agreed to. House resumed.

SUPPLY.] The Order of the Day for going into a Committee of Supply having been read,

Colonel *Sibthorp* rose to move for a Select Committee to inquire into the various commissions that have been issued since 1830 to the present time, or period, at which the above return may be dated. When he looked to the incomplete returns before the House, so unsatisfactory to the public, and so difficult to comprehend, and in which there was no just grounds assigned for the several commissions to which they referred, he felt, that in moving for a Select Committee, he was only discharging a public duty. Commission after commission, had been extended at an expense to the country of upwards of 2,000,000*l.* With regard to the record commission, which had been appointed in 1800, and which, in itself, has cost nearly 1,000,000*l.*, they were still in the same darkness and difficulty as to what additional amount would be required for taking care of those records. [*Lord J. Russell:* "That Committee has expired."] In 1836, he moved for returns, which were granted, but full of mistakes. In 1837, others were granted, correcting, in some degree, those mistakes, which were principally omissions. Amongst those returns, he found the tithe commission, which was, he believed, still in force. The expense of it he found to be, "as far as could be made up in the office," 3,496*l.* 8*s.* 1*d.*, including sums paid to the assistant-commissioners on account. With respect to the county-rate commission, the return had been undefined and unsettled. There had been no return as to the commission respecting the two Houses of Parliament. With respect to the commission of public works, Ireland, there had been no account or detail of any expense whatever given. The commission, on the state of religious instruction in Ireland, cost 43,031*l.* 7*s.* 9*d.*, and yet he would beg to ask, whether the state of religious instruction was better now than when that commission had been appointed? He would contend, that it was not. The whole was a direct job, unsatisfactory in its details, and what was worse, it was to this hour unsettled. From the commission on the fees, and emoluments of public offices, no return, no account, no explanation, had been given. The inquiry into the state of revenue and expenditure in Ireland, cost 2,186*l.* 13*s.* 7*d.* The tithe commission, which, as he had already noticed, cost 3,496*l.* 8*s.* 1*d.*, was still incomplete. He should like to know what had been done. The commission respecting municipal corporation inquiry in Scotland had cost 5,042*l.*, though the Commissioners had acted gratuitously—an example which he should like to see followed by other Commissioners. The commission of education in Ireland cost 140,454*l.* 1*s.* 7*d.*; but of this only 114,204*l.* 7*s.* 4*d.* had been paid. He wished to know why the difference had not been paid. Looking at the whole of these commissions, from some of which no return had been made, and from others no satisfactory return, he had a right to call on the Government, to grant a committee of inquiry. The municipal boundary commission had cost above 21,000*l.*, though it had turned out a total failure after all. The total amount of the expenditure of these commissions, not including the record commission, which, of itself, had cost nearly 1,000,000*l.*, nor the expense of the registering barristers, nor the Poor-law inquiry, with its brutal adjunct of placing superintendents, as they were called, over the poor of the country, was not less than 3,000,000*l.* taken out of the pockets of the people, and this expenditure, let him add, was incurred by a Government, which had come into office with promises of economy and retrenchment in their mouths, He would leave it to the country to decide, how those promises had been fulfilled, and how the Government had redeemed its pledges. What he sought by his motion was, to have a clear and satisfactory return of the expenses of all these commissions, and not such brief and garbled statements as had been already made. As he knew, that such a committee as he wished, could not be conveniently appointed this session, he should feel satisfied, if the right hon. the Chancellor of the Exchequer, would consent to its appointment at an early period next Session. The hon. and gallant Member concluded, by moving, that a Select Committee be appointed to inquire into the various commissions issued since the year 1830, distinguishing those which had expired, and those which had been abandoned, and also those still in existence, for the purpose of ascertaining the expense of each, and the result of their inquiries, and also the reasons for which any such commissions had been discontinued.

The *Chancellor of the Exchequer* could not accede to the motion of the hon. and gallant Member. There was not a single item of expenditure on commissions that had not by necessity been brought under the consideration of Parliament, and no money had been granted for those purposes, without the sanction of the House, either by a special act, or by the ordinary estimates of the year. The present was not a suitable time to discuss the merits of those commissions, and he trusted, that the House would not hold out the least hope of encouragement to the motion of the gallant Member, either now, or at any future time.

Amendment negatived.

The House went into Committee.

SUPPLY — EDUCATION (IRELAND).] On the vote of 50,000*l.* for National Education in Ireland being moved,

Mr. *S. O'Brien* rose to call the attention of the House to the partial distribution of the grant. In his opinion, either power should be given to raise money by assessment, or the grant ought to be increased; or indeed both ought to be done, for without it national education in Ireland could not be effectually promoted, and the House would not do its duty to that country until a good school was established in every parish. At the same time, if there were a large proportion of both Protestants and Catholics in a parish who refused to unite in a system of education, he did not say that any assistance should be given to them. He hoped he had enabled the House to judge that this money had not been distributed according to the local wants of particular districts; that the grant ought to be increased, and also that a united education should be the basis of any system adopted in Ireland, so that those who might conscientiously hold different views from those of the board should not be excluded from its range and benefits.

Mr. *James Grattan* was not prepared to increase the grant, though he wished to see the sums already voted appropriated with the greatest benefit to the country. He objected to the whole proceedings of the board, who, in his opinion, looked more to the quantity than the quality of education introduced, and thought that a better system ought to be established.

Viscount *Morpeth* confessed, that the statements of both his hon. Friends who had just spoken, appeared to him a little affected, for the former complained of the number of grants which had been already made as not sufficient, whilst the hon. Member for Wicklow seemed to think there had been too much money voted for this purpose already, and deprecated the grant of more to be applied in the same direction. With respect to the expense of the establishment in Dublin, the greater part had been incurred in fitting up school rooms and training masters, a point of material consequence, as the want of proper teachers was so much felt in establishing the system of education that was to be adopted. With respect to raising money by assessment, by the regulations laid down in the letters of the noble Lord, the Member for North Lancashire, it was expressly stated that local funds should be raised before any aid should be granted. When complaint, therefore, was made of the state of education in any district, it would, he thought, be found that the complainants had been deficient in the requisites laid down by the regulations on which the board was bound to act. As to altering the system itself, that was a large question on which Parliament might at some future time be required to give its serious consideration, both as to this country and as to Ireland, and also whether it should be made to depend on local contributions or not. The acrimony and hostility with which the board in Ireland was at first regarded, was daily decreasing; and he had no doubt, that the more its operations were known and watched, the more would it be said to meet the beneficent views of Parliament, in establishing a system of religious instruction to all classes, to which no difference of religious persuasion should form a necessary bar, and upon which the social condition of Ireland so much depended for improvement.

Vote agreed to.

SUPPLY—MAYNOOTH COLLEGE.] The Chancellor of the Exchequer having moved a vote of 8,928*l.* for the Roman Catholic College (Maynooth), for the year ending 31st. of March 1839,

Colonel *Sibthorp* opposed the grant, as exclusively applied to one religious persuasion. He disclaimed any intention to give offence to the Roman Catholics, some of whom he was happy in reckoning among his friends, but he thought that it was inconsistent with the Protestant religion of this country to vote a sum for the support of a religion opposed to that which was established here. In the then thin state of the House, however, he would not divide upon it.

Colonel *Percival* said, that this grant had caused much excitement in England, and he had no doubt that if the estimates had been brought forward at a different period of the year the opinion of the counties in England against the grant would have been made manifest. He should consider it a dereliction of his duty, however, if he did not state, that his hostility to the grant had been increased since the last opportunity he had of addressing the Committee upon this subject. An election had since passed, and the conduct of the gentlemen educated at Maynooth, the Roman Catholic priests, had been such as to show the necessity of some amendment in the system of education pursued in that college. Instead of being the promoters of peace and harmony and good will, they were only the instigators of revolt and tumult. He himself, had been the subject of attack, and his political conduct had been canvassed for five or six weeks before, and also after the election in every chapel but one. He would not, however, be deterred; and although his gallant Friend would not divide the House upon it, he trusted that her Majesty's Government would at an early period of the next session give an opportunity of sifting the whole matter.

Colonel *Verner* considered that this was an institution subversive of morality and good faith; and surely before the grant was agreed to, an inquiry ought to be set on foot. He knew that there had been an inquiry in the year 1826, but great changes had taken place since that time, and they ought to compare the declaration made by the friends and advocates of the Catholics before the Emancipation and Reform Acts had passed, with the sentiments now openly put forward and generally adopted. Many petitions from the people of England had been, night after night, laid upon the table of that House, calling upon them to make an inquiry into the system on which the college of Maynooth was conducted, and these petitions ought to be attended to. The estimates also ought to have been brought forward at an earlier period of the Session, when Irish Members capable of giving expression to their sentiments were present. In vain had the right hon. Gentleman the Chancellor of the Exchequer been asked in the spring to fix an early day for the discussion of the Irish estimates, but to-night, seeing those (the Opposition) benches empty, he had hurried them on, when they were not expected, postponing the militia estimates; and he (Colonel Verner) considered this as an unfair and unjustifiable substitution. If the hon. and gallant Member for Lincoln should not move, that this grant should be withdrawn, he felt it to be his duty to make such a motion.

The *Chancellor of the Exchequer* said, that it was not competent to the hon. and gallant Member to make the motion to which he had alluded in the Committee of supply; for they could not enter into such a question. They might vote against the grant, but they could not obtain a committee to inquire into the general subject. With regard to the complaint that the Irish estimates were improperly taken out of order, he begged to deny that such was the case. The estimates were all numbered, and were taken according to their regular course, and the complaint was entirely without foundation. If hon. Members had desired that the question should be considered more at large, it was quite within the powers of any one of them to move for a committee at any period of the Session. They seemed, indeed, to be aware of this fact; for one hon. Gentleman had already made a motion to that effect. It was true that the House was counted out on the day on which the subject came on for investigation; but the only inference which could be drawn from that fact was, that the motion was not agreeable to the House, as indeed it could not be, when it was made the vehicle for a general attack upon the Catholic clergy of Ireland. In reference to the grant, it was one of old standing, and not one which it was sought to introduce now for the first time. It had been established by Mr. Pitt on the recommendation of Edmund Burke, and it had been besides supported by men of all parties, and by men of the greatest weight in Ireland and in this country. The hon. and gallant Member had said, that in the college of Maynooth, principles subversive of morality and good faith were inculcated in the minds of the pupils. He denied, however, that such was the fact, and he must state, that he had seen men who had come from that college as highly educated and endowed, and as useful in the discharge of the duties of their respective situations, as those who had been educated at any other colleges. If hon. Gentlemen really wished the question of the grant to be fairly discussed, it was in their power, and it was their duty to give a notice by which the matter might be brought fairly under discussion, and if they did not give such a notice he was entitled to retort upon them, and to say, that they were afraid to bring the matter forward because they knew that public opinion was against them. The mere striking off this vote would not have any effect in putting down Maynooth, which seemed to be, in fact, the object of those who opposed it. The college would be taken up and supported by others, besides the Government, and the only effect which would be produced by such a course would be to create a dislike to its promoters in all those who had been educated at the college, who were in the course of education there, or who hoped to obtain their admission to it.

Mr. *Ellis* thought the really advisable course would be to grant a committee to inquire into the state of education at Maynooth, and he thought the very fact stated by the right hon. Gentleman that the grant was recommended by Burke, and established by Pitt, was a sufficient ground for adopting this recommendation. He hoped that the hon. and gallant Member would not persist at present in calling upon the House to reject this grant, and at the same time he suggested that measures should be taken as early as possible to cause the inquiry to which he had alluded to be made.

Colonel *Verner* observed, that the way to judge of Maynooth was to look at the conduct of the priesthood. He defied the hon. Gentlemen on the opposite benches to point out any Protestant clergyman who had ever been guilty of such outrageous conduct as that which had been recently exhibited by a Roman Catholic clergyman who had received his education at that seminary. The gallant Colonel then proceeded to read an extract from a speech made by the Rev. M. Doyle, as chairman of an anti-tithe dinner, given to him on a Sunday, at Kilkenny, by 150 persons. In that speech he declared his determination to oppose any Tithe Bill which did not go to the entire abolition of tithes, and said, that if the present Tithe Bill were passed, he would agitate the rent-charge. Yes, he would follow the advice of Lord Anglesey, and would "agitate, agitate, agitate." A magistrate, of the name of Hawkshaw, was present at that dinner, and heard that speech. He wished to ask the noble Lord opposite whether he had struck, or intended to strike, the name of that magistrate out of the commission of the peace, for hearing such a speech.

Mr. *O'Connell* had not heard that the "Battle of the Diamond" was one of the toasts given at the dinner to which the hon. and gallant Colonel alluded. The worthy magistrate, whose presence at an anti-tithe meeting seemed to excite the indignation of the hon. and gallant Colonel, had not given that toast, or any toast like it, and all that he had done was, to sit by whilst the Rev. M. Doyle was making his speech. He was sorry that the three gallant Colonels opposite, the Church militant he supposed of that House, had not the courage to divide against this grant; for if they had had such courage he should certainly have divided with them, for this grant was most decidedly against the voluntary principle which, in matters of religion, he should always uphold. They only talked—they would not divide. [The three gallant Colonels conversed together for a short time]. Now there is a council of war holding, and let us see what the results will be. Oh! these gallant Colonels! I must venture a parody against them.

"Three colonels in three different counties born—
Did Lincoln, Sligo, and Armagh adorn;
The first in gravity of face surpassed—
In grace the second—sobriety the last.
The force of Nature could no further go;
To beard the first she shaved the other two."

It was, however, but a paltry return for their giving a million to the Protestant clergy of Ireland to refuse so paltry a grant as 8,900*l.* for the education of the Roman Catholic clergy of that country.

Mr. *Gladstone* said, that the hon. and learned Member for Dublin boasted of having given 1,000,000*l.* to the Protestant clergy of Ireland. Would the hon. and learned Gentleman be kind enough to inform the House of the amount of the sum which he had been instrumental in withholding from them? He objected to the grant then before the House, because it contravened and stultified the main principle on which the Established Church of England in Ireland was founded.

Viscount *Morpeth* felt that it was not incumbent upon him to defend the origin of a grant which was recommended by Mr. Burke, established by Mr. Pitt, sanctioned by Mr. Perceval, and dignified by the Royal Protestant assent of George 3rd. The grant now proposed was scanty and penurious, and he thought that hon. Gentlemen opposite would feel extremely indignant, if a similar spirit of parsimony was extended towards the Protestant universities of the country. He would not, however, propose to extend this grant at present, for he feared that such a proposition would tend to increase that spirit of religious animosity which he was most anxious to allay. He only proposed to make the grant of former years, which was a most paltry and parsimonious provision for the priesthood of so extensive a country as Ireland; and still more so, for a priesthood invested with such immense responsibility as that which fell on the Roman Catholic clergy of Ireland. They had recently granted 900,000*l.* to the Protestant clergy of that country. Could they now be so ungracious as to refuse 8,900*l.* for the education of their Roman Catholic brethren? If they were to be always talking of the objectionable doctrines taught at Maynooth, they must not be surprised if they sometimes heard of the not very satisfactory doctrines which had recently become fashionable at Oxford. A book had been published lately, which certainly would be likely to make disciples of a new school, and which he was given to understand proceeded from that university. It was a work called "The Remains of the Reverend R. H. Froude," and was published, he believed, by Mr. Newman, who was the principal of one of the colleges in Oxford. Mr. Froude said,

> "You will be shocked at my avowal that I am every day becoming a less and less loyal son of the Reformation. It appears to be plain, that in all matters which seem to us indifferent or even doubtful, we should conform our practices to those of the Church, which has preserved its traditionary practices unknown. We cannot know about any seemingly indifferent practice of the Church of Rome, that is not a development of the apostolic ἦθος, and it is to no purpose to say, that we can find no proof of it in the writings of the six first centuries—they must find a disproof if they would do anything." . . . "I think people are injudicious who talk against the Roman Catholics for worshipping saints, and honouring the Virgin and images, &c. These things may perhaps be idolatrous; I cannot make up my mind about it." . . . "P. called us the Papal Protestant Church, in which he proved a double ignorance, as we are Catholics without the Popery, and Church of England men with the Protestantism." . . . "The more I think over that view of yours about regarding our present communion service, &c., as a judgment on the Church, and taking it as the crumbs from the apostle's table, the more I am struck with its fitness to be dwelt upon as tending to check the intrusion of irreverent thoughts, without in any way interfering with one's just indignation." . . . "Your trumpery principle about scripture being the sole rule of faith in fundamentals (I nauseate the word) is but a mutilated edition, without the breadth and axiomatic character, of the original." . . . "Really I hate the Reformation and the reformers more and more, and have almost made up my mind that the rationalist spirit they set afloat is the ψευδοπροφήτης of the Revelations."

He therefore called upon hon. Gentlemen to look at home before they threw their missiles of invective abroad in future; and at any rate, whether they looked at home or abroad, he called upon them to look at the errors of each other with something like a spirit of reciprocal kindness.

Mr. *W. E. Gladstone* had never heard a speech more cruelly unjust than that made by the noble Lord. Even if Roman Catholic principles were inculcated in the University of Oxford, that fact had properly no relation to the question; but he had no hesitation in characterizing the assertion as a mere vulgar calumny. If the noble Lord would read the preface of the book he had quoted, he would find that the editor expressly guarded himself against being supposed to entertain the opinions of the author, and stated, that he gave it to the world as the singular production of a remarkable mind.

Mr. *Wyse* said the only question was, whether the Catholic clergy were to be educated or not? for if they were, it was better they should be educated at home than abroad.

Mr. *G. Knight* said, he should vote in support of the grant, on the ground that the diffusion of education everywhere, but especially in Ireland, was the best mode of supporting and advancing the progress of Protestantism.

Mr. *Philip Howard* observed, that hon. Gentlemen should bear in mind that the greatest part of the Colleges of Oxford had been erected by the Roman Catholics as well as most of the Churches throughout the country. He really thought that in fairness, it scarcely became those who came into possession of splendid edifices ready built for them to grudge to the Roman Catholics who raised them, so paltry a sum, so inadequate a retribution if he might so express himself, as the grant then proposed to Maynooth College.

Grant agreed to.

SUPPLY — LORD DURHAM'S COUNCIL.] The sum of 500,000*l.* being proposed to defray the expenses (in addition to the ordinary amount) incurred by the insurrection in Canada.

Mr. *Warburton* said, that looking altogether to the expenses in which the retention of the Canadas had involved this country, he submitted it to the House whether it were worth while to retain a colony which had proved so expensive and unprofitable an acquisition. They had only to look to the vast sums which had been sunk fruitlessly in canals, and to the folly of enforcing a trade in timber with that country when a much better quality could be obtained in European ports, to feel the force of this observation. He was convinced that the annual expense of this Colony to England was not less than 2,500,000*l.* How much better would it be to apply this sum to a reduction of the general taxation of this country. In his mind they should seek the earliest opportunity, consistently with the claims of individuals, to effect a peaceable separation.

Sir *E. Sugden* rose to direct the attention of the House to the present state of Canada with reference to the constitution of the Special Council. That council, as appeared by a document which had been recently laid upon their table, consisted of five persons. Now, in one of the earliest clauses of the act of Parliament which passed this Session, it was stated, that the Governor-general should have authority to appoint such special councillors as he might think proper, without specifying any particular number; and the noble Lord opposite, in introducing the bill, said that no particular number of special councillors should be appointed by the bill, but that five should constitute a quorum; and in a subsequent clause it was enacted that no act should be valid unless it was introduced by the Governor-general himself in the presence of five at least of the Special Council. In the instructions sent out to the Governor-general, he was authorized to appoint such individuals as he pleased to select for the post of Special Councillors, the number not being less than five. The Governor-general had done exactly what he (Sir E. Sugden) had anticipated, for, although the act of Parliament did not say, that there should be more than five of these Councillors appointed, yet the inference was irresistible that there should be more than that number; because, if there were to be five at least present when the Governor in order to make their proceedings valid, surely this supposed that the body itself should be composed of more than five. He had taken the opportunity of stating his opinion on this point to a member of the Government. If his opinion were a correct one, there could be no doubt that the acts of the Council would be void, on the ground of irregularity in the formation of that body, contrary to the terms of the act, and it was certain that advantage would be taken of this objection by persons in the Colony who might be affected by the acts of the Council. As he was on his legs, he could not avoid saying a word or two with respect to the parties appointed by Lord Durham as his council. When the House heard of the authority given by the act relating to Canada to the Governor-general to appoint a Special and Executive Council, no member doubted that the object was, and indeed the whole context of the act bore out that meaning, that these bodies might exercise some control over the acts of the Governor-general himself. In the Executive Council the Governor-general was to have the initiative of every measure, But was it not a mockery to talk of any control being exercised over the Governor-general by a body selected from his own military staff, or by members chosen from his own household? When the noble Lord dissolved the Special Council appointed by Sir John Colborne, he assigned as his reason that his object was to take the whole responsibility on himself of all the measures which he might deem it necessary to originate. Sir John Colborne construed the act differently, for besides his Executive Council he appointed a Special Council, consisting of twenty-one, eleven of whom were Canadians. This body exercised a power analogous to that of a Legislative body, and passed several important measures. When the Earl of Durham thought fit to dissolve that body, he appointed the Executive Council, consisting of only five members, selected as he had already described; Mr. Buller was one of the five so named. He had been one of the Special Council, but was afterwards named as one of the Executive. Now, what control could he be likely to exercise over the acts of the Governor-general? Did any one doubt that if he ventured to assert an opinion of his own at variance with that of the Governor-general, he would not be allowed to continue a member of the Council. He had no wish to allude to the acts of my Lord Durham by anything like severity of comment, as he was aware that any doubt as to the legality of his conduct there would tend to weaken his authority; but he thought that Parliament having suspended the whole constitution of Canada, to place the whole power in the hands of one individual, they ought to look with a vigilant eye on his acts, and of all things take care that the Council to assist him should be legally constituted. He had not heard that any opposition had been made in Canada to any of the parties appointed to the Council, but he felt that objections might be made to the constitution of the Council by parties who might be affected by its acts. It was not his intention to submit any motion on the subject. He threw it out as a matter for the consideration of the Government. If they concurred with him in his view of the point, it would be for them to decide whether they should not pass a short bill to cure the defect. If they differed from him in the construction of the act, he would reserve to himself the right of introducing the subject on a future occasion.

Lord *John Russell* thought if the right hon. Gentleman had been strongly impressed with a sense of the inexpediency of weakening the authority of the Governor-general at this time, he would have spared some of the observations he addressed to the House. The right hon. Gentleman had again stated his opinion as to the illegality of the way in which the Special Council had been constituted by Lord Durham; and said, that it was not legally constituted because it did not consist of more than five members. Of course, any observation of the right hon. Gentleman, if it had much weight in it, would not have failed to have had weight on the minds of others; but he must say, he had not heard that opinion supported by any other person than the right hon. Gentleman himself. It appeared to him (Lord John Russell) that the fact of five members only being appointed could not well affect the legality of the proceeding, because the act only said, that not less than five should be present at any council. [Sir *E. Sugden:* Five at least.] Yes, that five at least should be present. The course which Lord Durham had taken, was one at which five persons had been present. Others, indeed, might think that Lord Durham ought to have appointed more than five; but supposing five to have been appointed, and five to have been present at the special council that had been held, he could not conceive how it could be a point of objection to the constitution of that council, that there had not also been two or more absent members appointed, but who had never attended or taken any part in the council. He could not well understand how a man could say, "It is very true the Governor-general was present, and the five Members required by the Act were present; but then I object to the legality of the council, because there were not two or three useless absent members belonging to it who had never taken any share in their proceedings." It did not appear to him, in point of reason, that that objection could be entertained. The right hon. Gentleman next found fault with the composition of the Special Council. He had told the right hon. Gentleman before, that he thought it probable, that the persons who would be appointed members would not be Canadians, but persons connected by office or military appointments with Lord Durham. That had been the case. The persons appointed were persons so connected with the Governor-general. The right hon. Gentleman, however, was not right in inferring that because that was not the case with Sir John Colborne's administration, and was the case with Lord Durham's administration, therefore either one or the other must be wrong in the course he had taken. Because it was quite competent for Sir John Colborne to call together any number of Canadians, and for the purpose which he had in view, yet it might be quite as proper and wise of Lord Durham to call other persons to his council for different purposes, and to be effected in a different manner. It was expressly understood, when orders were sent to the Colony for Sir John Colborne to appoint a council, that it was by no means incumbent on Lord Durham to appoint the same persons to the Special Council. An inference might be drawn from what had fallen from the right hon. Gentleman that he supposed a wide difference of opinion had existed between Sir John Colborne and Lord Durham. [Sir *E. Sugden*: I had no intention to imply any such thing.] He was glad to hear the right hon. Gentleman say so. He begged to state, that no difference of opinion had existed between those two parties. During the short time Lord Durham had yet acted in Canada, Sir John Colborne had given him the utmost assistance and counsel that he was capable of rendering, and Lord Durham had derived the greatest advantage from the representations he had received from Sir John Colborne; and, indeed, the intercourse between the Governor-general and the very distinguished officer whom he succeeded had been of the most satisfactory kind both to Lord Durham himself and to the Government at home. With respect to the larger question of the policy of those appointments, it was one which might be debated on another occasion. But he could not exclude from his consideration, whenever that question should come to be debated, the manner in which those appointments had been looked upon in the province of Canada itself. The right hon. Gentleman did not seem to think that the opinion of the Canadians was much to be attended to in this country. Now, the opinion of Lord Durham, expressed before he left this country, was that which he thought, any man of sense and decision would be expected to entertain, namely, that, the success of his mission would depend very much on the manner in which the Special Council might be received in Canada. "Because (said Lord Durham) if these dissensions, which have been carried on so long and with so much animosity, have made every person in Canada either of one party or the other, I shall not be able to find any person who is not suspected by those of the opposite party, unless it be those who are called the 'moderates,' and who not being attached to either party makes them disliked by both. In that case, therefore, I should think it more expedient to appoint persons who are not connected with Canada at all, than to expose my Government to suspicion and to hatred, either by one party or the other in Canada." The inspiring confidence in his Government among the people of Canada of different origin and denomination was in itself a very considerable point in the matter which he was to carry on. It should be recollected, that the commission on which Lord Durham went out, was in the first place to preserve an important province to the empire of the mother country, and in the second place to lay the foundation of lasting peace and harmony among the various inhabitants of that Colony. Was it not important, then, in order to take away all ground of distrust, or apprehension of failure, that the measures of his Government should be attended with the assent, approbation, and confidence of both the British and French Canadians? He should, therefore, whenever the question came to be decided in estimating whether Lord Durham was or was not right in the appointment of persons totally unconnected with Canada, consider that it was a very great element in the decision to which Parliament might come in respect to that question, whether or not Lord Durham's measures had been favourably viewed by those among whom he was sent to administer public affairs. He must say, that it was at least very satisfactory to the Government at home to find from the various letters and accounts received, that both the British inhabitants and the French Canadians were disposed to receive with favour, and to look with confidence to the administration of the nobleman who had been sent by her Majesty to restore peace and harmony among them. With regard to the rest, the right hon. Gentleman would consider it a want of courtesy towards him if he again repeated, that though receiving dispatches from time to time from the Government of Canada, it was quite impossible for the Government at home to enter into an explanation of the reasons for each particular measure and a justification of each particular step, until that Administration had gone considerably further, and until those measures had been prepared and carried into effect, which, he confidently believed, would result in retaining that Colony to the British Crown, and in restoring peace among its inhabitants. Those were the great objects to be obtained; and although there might be persons in this country who did not look to those objects, he must say, that those in Canada who were attached to the British Crown were the persons most interested in this matter, and, therefore, most to be regarded. They felt, that it was a vital question to them, in the first place, not to be exposed to civil war, and, in the second place, not to have those harassing and vexatious dissensions continued which had so very long distracted that province. It was to them a question of vital interest; while to us it was rather a matter of mere speculation; though even in this country, he thought, it ought rather to be an object of desire that Lord Durham should succeed, than that we should oppose, by any hostility, impediments to his success.

The *Attorney-General* thought it right to say something about the doubt expressed by Sir E. Sugden respecting the formation of the Special Council. He could not participate in that doubt. It seemed to him, that there being five members of the Special Council, and all being present, no reasonable doubt could exist of the validity of the acts of that Council. By the second clause of the act such and so many special councillors were to be appointed as her Majesty and the Governor-general should please. No number was specified. When they came to the following section then it was said, that five at least should be present when any act was done. What was the meaning of that? Why, that at least there should be five councillors appointed. Five were appointed in the manner specified by the act; the condition, therefore, was performed, and, in his humble opinion, there was no reasonable doubt, that the acts of that council were valid.

Mr. *O'Connell* deplored the crimes, that had been committed against the Canadians. A greater crime never was perpetrated than when the British Legislature took away from the House of Representatives in Canada the command of the purse of the Canadian people. The right hon. and learned Gentleman (Sir E. Sugden) had talked a great deal of constitutional principle, but where was his love of constitutional principle when the House of Commons was robbing the Canadians of the first principle of the Constitution, planted by the British Legislature in Canada—namely, the right over the public purse? The friends of liberty in Canada had, at first, everything in their own power, and might have insured success if they had managed well. But for their own folly, wickedness, and crime, they would have decidedly prevailed. The moment, however, that Papineau and the rest shed blood, and broke out into rebellion by forming military companies, in spite of the executive power, at that instant they lost the support of every man who looked to obtaining the freedom of any people by constitutional means, and they deserved the greatest misfortune, that could fall upon them; they deserved the greatest of all misfortunes—that of putting their country into the power of despotism. It was a despotism; Lord Durham was a despot. The question then remained, how had Lord Durham conducted himself with such despotic power? He acknowledged, that having a high esteem for that nobleman's character, he was afraid he would have sacrificed it in the vain attempt to conciliate parties in Canada. His delight, however, could hardly be expressed at that noble Lord's success, hitherto, for that noble Lord had conciliated all parties there. Every letter that arrived expressed the satisfaction of the people of Canada at his proceedings. The noble Lord had acted with a degree of perfect impartiality between the French-born, and the British-born, Canadians, and between all sects of Christians; and they were all unanimous in their expressions of regard for him. One of the first things, that made the noble Lord popular was, the abolition of that very council of which the right hon. and learned Gentleman had spoken. The last of his acts was signally admirable for its humanity. Governor Arthur had been gorging himself with the blood of those poor wretches, who —[*Oh! Oh!*]. Yes! he did gorge himself with the blood of his victims, and there were many people in this country, who would have encouraged him in going on with that blood-shedding system. But Lord Durham most properly interfered. He put out of the country all those men who had taken a guilty part in carrying on the insurrection, and he had kept in banishment those who, having taken a less active part in the rebellion, had fled. That act had been followed up exceedingly well, and the whole conduct which Lord Durham's government had hitherto adopted was an earnest of his desire to establish permanent peace in that country without depriving the people of any portion of their rights longer than was absolutely necessary to enable him to restore harmony among them. He trusted, that the noble Lord would speedily accomplish his object, and would then return to this country with a higher character than even that with which he left it. The noble Lord seemed to have been attacked not only here, but elsewhere, with a determination of purpose most extraordinary. First impressions had been taken up against him with the greatest avidity, and there appeared to be a disposition to run him down. The right hon. and learned Gentleman opposite complained, that in the selection of his council the noble Earl had acted illegally. First, he said, the persons chosen were the noble Lord's dependents. Now, what could be the mighty independence of any council in the appointment of the Crown, and removable by the Crown at pleasure? Then, forsooth, there must be five councillors at least, and, therefore, it was argued, that there must be more than five; that five was not five, but must be six or seven. That was legal arithmetic. It was a compliment to be paid to one of great legal knowledge to find out a mare's nest like that. For his part, he could not compliment the right hon. and learned Gentleman upon his arithmetical discovery especially as from that very doubt might arise another insurrection? for those who were striving for freedom in Canada might say, "Oh! we will not obey these new laws, for the late Lord Chancellor of Ireland has said, that all the acts of Lord Durham are perfectly illegal, and that five is not five." He had felt it necessary to say thus much, for he perceived, that there was a perpetual running fire opened against Lord Durham, and that he was attacked by all species of political adversaries; but, he believed, that the gratification which that noble Lord would feel at having pacified Canada and preserved his own reputation would abundantly recompense him for all these attacks.

Sir *Charles Grey*, having paid considerable attention not only to the particular act referred to, but to many other acts of Parliament relating to Canada, could not agree with the right hon. and learned Gentleman, that the proceedings of the Special Council would be at all invalidated in consequence of five members only constituting that council. There was one observation which fell from the hon. and learned Member for Dublin to which he wished to advert. The hon. and learned Gentleman had said, that the act of Parliament had conferred on Lord Durham powers of despotism. Now, if such an opinion were to go forth in Canada it would be calculated to do immense mischief. There were parties in that province who would be most ready to persuade Lord Durham, that he did possess those powers. But he begged to express his decided opinion, that the act did not confer any despotic power on the Governor-general. The utmost it conferred was a legislative power to the Governor-general in Council, which was previously possessed by the Legislative Council and the House of Assembly. It would be ruinous to have it supposed, that the power it conferred was despotic.

Lord *J. Russell*, in consequence of a word which had dropped from the hon. and learned Member for Dublin respecting the conduct of Governor Arthur, wished to make one observation. He should be sorry, that it should be understood, that Sir George Arthur had at all been anxious in any case to enforce the extreme execution of the law where circumstances did not make it, not only justifiable, but absolutely necessary.

Vote agreed to.

The House resumed.

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HOUSE OF LORDS,

Tuesday, July 31, 1838.

MINUTES.] Bills. Received the Royal assent:—Poor Relief (Ireland); Land Tax Redemption; Land Tax Commissioners; and India Steam Company.—Read a first time:—Mediterranean Postage; and Customs.—Read a second time:—Tithes (Ireland); and Fisheries (Ireland).—Read a third time:—Royal Exchange.

Petitions presented. By Lord RAYLEIGH, two, from places in Essex, for the repeal of the Beer Act; and that the revenues of the Established Church should be appropriated to Ecclesiastical purposes.—By the Archbishop of CANTERBURY, from the Archdeacon and Clergy of Bath, against the Beer Act; and from Warminster, and other places, against encouragement of Hindoo Idolatry.

HINDOO IDOLATRY.] Lord *Ellenborough* had to present four petitions against encouraging Hindoo Idolatry, and he did not think it right to present them without making a few observations on the subject to which they related. The points which the petitions embraced were threefold. The petitioners prayed, 1st, that the East India Company should cease to derive any pecuniary advantage from idolatrous worship; 2d, that the company should cease to have any connexion or interference with the appointment of officers to the different temples; and, 3d, they further prayed, that there should no longer be bestowed on the religion of the Hindoos and Mahometans, those outward marks of respect which it had hitherto been the practice of the Indian government to manifest towards those religions. To a very large portion of the prayer of the petitioners he could agree. He was ready to diminish the tax on pilgrims, so as to do away with all pecuniary profits which the company might now derive from that source, and on which was founded the assertion, that they gave encouragement to idolatry. It was a mere question of finance, whether that tax ought not to be diminished, and if became a strong and general matter of feeling, that it was wrong for a Christian government to derive any profit from a tax of this kind, no financial consideration ought, in his opinion, to be allowed to stand in the way of a compliance with that feeling and desire. As to putting an end to all interference with the appointment of officers in the temples, he conceived, that the practice ought to cease wherever it could be effected without great inconvenience. But the last point (that which related to manifesting marks of respect to the religion of the natives) was one that deserved the most grave and serious consideration. It had hitherto been the invariable practice of the government in India to bestow outward marks of respect on all religions professed by the natives of that country; and he must say, that if it were the intention of her Majesty's Government to discontinue those outward marks of respect, they must proceed with the greatest caution and circumspection. Because, if they did not, they would afford an opportunity to ill-disposed and designing persons—they would afford the means to such persons of encouraging a feeling and apprehension in the minds of the natives, that Government, in consequence of the withdrawal of those outward marks of respect, entertained an intention to interfere with that perfect toleration and protection which had hitherto been extended to all religions; and he did assure her Majesty's Government, that his firm conviction—a conviction not lightly taken up—was, that the moment such an apprehension was entertained by the people of India, there would be no safety for the life of any Christian in India. Such an impression would infallibly lead to the massacre of all European Christians in that country. It would, in fact, form the commencement of a series of evils and misfortunes which it was dreadful to contemplate. The welfare, peace, and prosperity of India, depended on the continuance of our imperial Government there. Let that once be shaken, and India would for years exhibit scenes of massacre and bloodshed; therefore, he would say, that no consideration on earth, if he were connected with that government, should induce him to proceed hastily in departing from that custom which had hitherto prevailed, of showing outward marks of respect to those religions, and of affording to them full protection and toleration. In other points he thought, that the prayer of the petitioners might be complied with. Before he sat down, he wished their Lordships to hear a character of the people of India very different from the idea which the petitioners perhaps entertained of them. That character was given by a very great man, one of the greatest men whom this country ever sent to India, by the man who knew India best, and whom the people of India loved the most—Sir Thomas Munro. In answer to a question put to him in 1813, when the renewal of the company's charter was under consideration (and he entreated the petitioners to consider well what sort of a people it was with respect to whom, on a most delicate point, the Legislature was required to interfere)—in answer to a question put to him on that occasion Sir Thomas Munro said,

"I do not exactly know what is meant by civilizing the people of India. In the theory and practice of good government they may be deficient; but if a good system of agriculture, if unrivalled manufactures—if a capacity to produce what luxury or convenience demands—if the establishnent of schools for reading and writing—if the general practice of kindness and hospitality—and, above all, if a scrupulous respect and delicacy towards the female sex, are amongst the points that denote civilized people, then the Hindoos are not inferior in civilization to the people of Europe."

Lord *Brougham* said, this was a most important question, inasmuch as it affected 70,000,000 or 80,000,000 at least of our fellow-subjects. He entirely agreed in the view which his noble Friend had taken of the matter. Many petitions had been presented on this subject in the last Session; but in the present they had been far more numerous. It was, indeed a most important and a very delicate question. It was a mere delusion to suppose, because we differed from these people in religious opinion, that we should manifest our opinion by showing any thing that, looked like slight or disrespect to their religious ceremonies. Such a course in matters of this nature was a mere begging of the question. It was merely saying, "You are wrong, and we are right, and therefore we will treat you with contumely." All that ought to be done was to meet them on their own ground, and by argument to show them that they were wrong, and that we were right. Anything beyond that was monstrous, it was intolerance, it was injustice, it was cruelty, nay, it was destruction. And Christian as well as Pagan, would perish in the ruins which an improper interference with the religious ideas of the people of India would occasion. That the East-India Company should not receive anything in the shape of revenue from the Juggernaut, or other superstitions of India he thought was most proper. That proposition he considered to be perfectly correct. If we declared that we were right, and that they were wrong, we ought surely to derive no benefit from that which we held to be grossly erroneous. As to the outward marks of respect which were shown to those religions, no man's opinion was thereby compromised. They manifested no deference to the opinions of those people, as if they who attended believed, that their religious ceremonies were praiseworthy. What was done elsewhere? Why, we were not Roman Catholics, and yet our troops turned out in Catholic countries when certain ceremonies were performed. Prussia, too, which was not Catholic, yet paid Roman Catholic priests, and he wished that the same thing could be done here. Certainly the utmost caution ought to be used in approaching this subject. What was the course taken with respect to that most inhuman and criminal custom, the burning of widows? In the first instance Lord Minto consulted the most learned pundits he could find on the subject, and even he paused before he would put an end to the system, a consummation which he left to his successor, Lord William Bentinck.

Conversation ended.

APPOINTMENT OF MAGISTRATES—(SCOTLAND.)] The Earl of *Haddington* begged leave, pursuant to the notice which he had given a few days since, to state the circumstances connected with the recommendation and appointment of two magistrates in the county of Cromarty, in Scotland, which their Lordships would admit to be as extraordinary as any which had ever been submitted to that House. It would be in the recollection of their Lordships that there was a vacancy in the representation of the county of Ross in the spring of last year, and that there was a sharp contest. At that election an individual named Gibson had been forcibly abducted, in order to prevent him from giving his vote for the Gentleman who now represented that county. There were two persons named, Watson and Smith, who were concerned in that abduction; they inveigled the voter Gibson to the house of one of them, they made him drunk, and carried him away in a state of insensibility, and forced him, despite his struggles, into a post-chaise, in which he was rapidly conveyed to an inn in the country and put to bed; from that place he made his escape and was pursued, but ultimately he got back to Ross in time to give his vote. Now, those two persons, on the recommendaion of the lord-lieutenant of the county, had been appointed justices of the peace for that county. A prosecution had been commenced against those persons—not by the Crown, for the Crown had declined to prosecute, but on what ground he could not conceive—but the person who had been abducted prosecuted them himself, and, that being the case, he of course could not appear as a witness, which he might have done if the Crown had prosecuted. The prosecution was commenced; the case could not be tried till the subsequent August; but, strange to say, *pendente lite*, the noble and learned Lord on the Woolsack had appointed on the recommendation of the lord-lieutenant, those two individuals to be magistrates. One of them was what was there called a hardware merchant, or, in plain English, an ironmonger. The other practised as a surgeon, and had no property. He had heard, that since he gave notice of his motion, the noble and learned Lord had issued a *supersedeas*. [The *Lord Chancellor* "No."] Then they were still magistrates; and he was only surprised that the noble and learned Lord had not done so. But, with regard to the result of the prosecution after their appointment as magistrates, the fact was, that whilst the jury was being struck, a proposition was made by the counsel for the defendants to the counsel for the plaintiff, to the effect that the defendants would consent to pay 25*l.* damages and costs, as if a verdict had been found for the plaintiff for that amount. The issues which were to be tried embodied the facts which he had stated, and by their consenting to a verdict against them for 25*l.* the defendants admitted the guilt; and yet these men, who had been guilty of that ill-conduct, and of a gross violation of the rights of the subject had been recommended by the lord-lieutenant to be placed on the commission, had been appointed by the Lord Chancellor, and not superseded. That was a most extraordinary case. They had heard of strange cases of appointments of magistrates in Ireland and in England, but he thought that he had now found one that would match them in Scotland. He imputed this to politics and nothing else. He should be guilty of a great want of charity if he were to impute it to anything else; for, after all, bad as that reason might be for such conduct, it was the least bad reason which could be suggested. The lord-lieutenant of the county of Cromarty was a gentleman of family and property, and a strong partisan of the present Government, and therefore he supposed enjoying a greater degree of the confidence of the noble and learned Lord. That noble and learned Lord had hitherto been charged with not paying due deference to the lords-lieutenant of counties: he had certainly no such charge to make. The noble and learned Lord had stated that he was alone responsible; that it was his duty to see proper persons appointed; but he was afraid that the noble and learned Lord had more confidence in some lords-lieutenant than in others; and he only wished that he (the noble and learned Lord) would entertain the same wholesome distrust of Whig lords-lieutenant which he appeared to have of Tory lords-lieutenant. The station of life alone in which these two persons were was objectionable; for though it was true that in Scotland there was no qualification, still persons had usually been appointed pretty much of the same class as the magistrates of England. If the noble and learned Lord had only taken the trouble to inquire into the character of these men, the result must have been that he would have communicated to the lord-lieutenant his astonishment that they were recommended. There was another case which he would mention, on the authority of a letter which he held in his hand, and which had been received by the hon. Member for the county of Ross, Mr. M'Kenzie. It appeared that the lord-lieutenant of the county of Ross was a Conservative; however, in the list of names which he had submitted to the noble and learned Lord he had recommended four persons to be justices of the peace who were law agents. Two of them were Conservatives, and had been magistrates before for some years, but the other two whom he recommended were agents of the opposite party, and these he had described in the list of bankers; notoriously, however, they were law-agents, solicitors or procurators practising in the sheriffs' courts. Now what had been done with that list? The two who had been magistrates before were struck off, and the other two were put on. The noble and learned Lord had struck off the two Conservative law-agents, and put on the two Whig law-agents. He would not state the names of the parties, because his object was to call the attention of the noble and learned Lord to the case, and the noble and learned Lord would have ample means of investigating it. The appointment of those law-agents had produced an impression that all the law required was, that the solicitors or procurators in the sheriffs' courts should not sit on the bench for the county in which they practised; but it was right that that erroneous impression should be corrected. He certainly began under the firm impression that the noble and learned Lord had issued a *supersedeas,* and he had intended to offer that as a reason for not making any motion, as his object would then have been answered; but as he now found that that was not the case he must make a motion. He therefore moved that a copy of the last commission of the peace be laid on the table.

The *Lord Chancellor* said, that he had never heard a more complete proof of the impartiality of a lord-lieutenant than that afforded by the noble Earl. Under the provisions of the Act of Parliament, which he held in his hands, no solicitor or procurator practising in the inferior Courts could be a justice of the peace in the counties of Scotland. That was the law which he was bound to obey; but when, in the exercise of his office, he came to look over the lists of names he found that in many lists there had been magistrates who by that Act were disqualified; it was his duty to correct that error, and the names were therefore omitted. But it appeared, that the lord-lieutenant of Ross-shire was a Conservative, and, of course, impartial; but he was more; he was not only impartial, but he was very partial to the other side. The statement of the noble Earl was, that there were four persons in the list—two Whigs and two Torie. The two Whigs were described as bankers; but, unfortunately, they were procurators. The two Tories were described in such a way as to lead any one to suppose that they were not qualified. Looking, therefore, at the list, his attention was immediately drawn to their description, and, of course, he struck out the two who appeared to be disqualified. Such was the impartiality of the lord-lieutenant, that he had marked his own friends as disqualified: but the Whigs he had protected from detection, because he described them as bankers, and bankers were not disqualified. But if, at the present time, there were two procurators or solicitors in the commission, they, of course, were disqualified. As to the other case, assuming the statement of the noble Earl to be correct, nobody could entertain a doubt that those two individuals ought not to remain in the commission. But then it was equally clear that no man in the commission of the peace should be struck out without having an opportunity of giving an explanation of his own conduct; and yet the noble Earl was surprised that he had not issued a *supersedeas* without communicating with these individuals at all. He should have been guilty of great injustice if he had done so. In the list handed to him those two person had been described as George Gordon Smith, surgeon, and William Watson, merchant. As to their situation in life, he understood that, in the northern parts of Scotland, they were under the necessity of appointing that description of persons because others were not to be found. All he knew was, that the latter of these two persons had been recommended to him as a merchant; but what that word might signify in the language of that country he had not the advantage of knowing. After he had received that list, with a letter in the usual form, he had communicated with a gentleman connected with that part of Scotland on the subject, and he had returned the list to him without any observation as to those particular names. From that time till the 26th of July the matter had not been brought to his attention. There had been a discussion in the House of Commons last year on the occurrence in question; but he had never connected that discussion with the magistrates whom he had appointed. But the subject having been brought to his attention, he had written to the lord-lieutenant of the county, stating the representations which had been made to him respecting the conduct of the two magistrates, expressing his regret at their recommendation, if it were true, and requesting information as to the truth of those representations. In answer to that letter he had received one from the lord-lieutenant, in which he stated, that he had written to the two magistrates, requesting them to furnish him with any grounds for sustaining their appointment; and also to the agent by whom the compromise had been effected. That letter enclosed a statement, in which the lord-lieutenant said, that Smith was a medical man, and Watson a retail hardware dealer—termed, in the provincial phrase, "a merchant;" that persons in Scotland were recommended to that situation, whose rank was very different from what would be considered suitable in England; and that the former lists for the counties of Ross and Cromarty, proved that statement; that the lord-lieutenant had certainly heard that these persons had been engaged in some irregular practices at the election; that he had heard statements and counter-statements, into the truth of which he had not inquired; that he had also heard of a civil action having been commenced against them; but that as the Lord Advocate had not thought proper to prosecute them, and the House of Commons had refused to address the Crown on the subject, he did not feel it his duty to expunge their names. He was himself, therefore, free from blame for the part which he had taken in the matter hitherto; but now he would say a word as to his duty for the future. It was to be remembered, that to strike a man's name out of the commission was an act inflicting deep censure on a man's conduct: it required that a case should be made out, for it was passing sentence against him, and that he could not do without communicating directly with the individuals. He had heard of the matter only on the 26th; the lord-lieutenant had told him that he had put the case in the course of investigation; and he should wait for the result of that investigation, in order that he might be better able to frame the questions which he should afterwards put to the individuals themselves. He should then hear what they had to say in their defence, and upon the result of that inquiry his decision must depend. He wished now to appeal to the noble Earl whether it was expedient or beneficial to bring these matters into public discussion whilst the inquiry was going on. If an action were pending, it would be thought highly improper to bring the merits of an action into discussion; and, in fact, these persons were on their trial whether they should or should not suffer the disgrace of having their names struck out from the commission of the peace. If that were the object of the noble Earl, and if it had pleased the noble Earl to communicate his information to him, he would have paid the greatest respect to that communication, and would have immediately acted upon it. It was always most desirable to pursue that course, when the object could be attained by a communication with a public officer. He had now stated all he knew, and the course which he intended to pursue; and he need only further assure the noble Lord, that he had equal faith in the impartiality of lords lieutenant of both political parties.

The Earl of *Haddington* said, that he had called the attention of the noble and learned Lord to the case of the law agents in the county of Ross for the purpose of inquiry; but he had made no charge whatever against the noble and learned Lord. The noble and learned Lord had complained of his bringing the matter forward whilst the individuals were on their trial; but he must remind the noble and learned Lord that their trial had passed. He held in his hands the issues which were about to be tried, where the defendants consented to have a verdict pass against them with 25*l.* damages. Could there be the smallest doubt that the parties had thereby admitted themselves guilty of the offence? But, further, a prosecution for libel had been instituted on the part of the two defendants in that former action, and that also was to have been tried; but they acted on their own discretion entirely and on no proposition from the other party in abandoning it. With all these things on his mind, he should have been unwilling to have allowed such a case to pass unnoticed; but he would not then longer detain their Lordships.

Motion withdrawn.

THE CONVICT THOMPSON.] Viscount *Melbourne* was desirous of taking an early opportunity of making a statement to the House, with respect to a petition which had been presented by the noble and learned Lord (Brougham) on a former evening, and in which the petitioners stated their great surprise that a convict named Dale William Thompson, who had been committed to prison some time previously for a very serious burglary, should have been released from prison without any apparent reason, while three other persons convicted for the same offence were suffering under the severe sentence of transportation. The circumstances of the case, which were somewhat singular, were as follow:—The burglary was committed in the month of April, 1837. The first two persons apprehended for the burglary were tried at the summer assizes, and convicted upon the clearest evidence. The third person, who was supposed to be the most active accomplice, was not arrested for some months after, and was tried at the spring assizes, and convicted. Dale William Thompson was also convicted, but upon his trial very strong evidence of an *alibi* was adduced in testimony of his having been at Wandsworth, twenty-nine miles from the place where the burglary was committed, upon the night in question. But the evidence for the prosecution appeared so clear that he was convicted; and the Lord Chief Justice was completely satisfied with the verdict. After the trial, however, still stronger evidence of the *alibi* was produced, and this had the effect of shaking the opinion of the Lord Chief Justice. That functionary took the precaution of inspecting the depositions at the trials of the men who had been convicted at the previous summer assizes. From these depositions he found to his surprise, that although in them the whole of the witnesses fixed the night of the burglary between Saturday, the 8th, and Sunday, the 9th of April, the witnesses who deposed in Thompson's case in the August following fixed it upon Saturday, the 1st of April. This was no uncommon species of forgetfulness among witnesses of that class of life. Such being the case, Thompson was to be considered, for the purposes of the present discussion, as not having been guilty at all of the alleged burglary. He certainly was not guilty of the burglary on the night of the 1st of April; and the *alibi* might have been, therefore, fairly made out. Had the fact been made known to the jury, they would have probably found a different verdict. Their Lordships would feel the force of the opinion thus advanced by that learned judge. The circumstance was altogether an unfortunate one, and there was every reason to believe that a great criminal had escaped from justice by means of this error; but the circumstances were, he trusted, fully sufficient to authorize the Lord Chief Justice to order the prisoner's release.

Lord *Brougham* said, that nothing could be more satisfactory than the statement of the noble Viscount; but it was not correct in the Chief Justice to say, that Thompson was not really tried for the offence committed on the night of the 8th of April. If he were put upon his trial again, he could undoubtedly plead *autrefois convicte*. In an English indictment the day was perfectly immaterial. He quite agreed with the Lord Chief Justice that in the circumstances of this case no man could tell what effect a disclosure of the mistake committed by the witnesses might have had upon the minds of the jury.

Subject dropped.

TRADING COMPANIES.] The *Lord Chancellor* moved the second reading of the Trading Companies Bill.

Lord *Brougham* totally objected to the bill which passed that House last year upon this very subject. It passed that House *per incuriam* without ever having obtained any consideration from the law lords, when the House was under the terrors of a dissolution, on their death bed, and, consequently with but little time to attend to their temporal concerns. A worse bill, and one which introduced more mischievous changes in commercial law, it would be impossible to frame. The bill gave power to the Crown, without an act of Parliament, to make one, two, or three persons in the country a trading company. The Secretary of State and the President of the Board of Trade, without any judicial advice or assistance, had it in their power, under the bill, to erect those persons into a trading company, and exempt them from the operation of the bankrupt laws, limiting their responsibility to a certain amount, contrary to the whole genius and spirit of the English law, and contrary to the genius and spirit of the constitution. Whether the principle of the French law of partnership, *commandite*, should be adopted in this country or not, was a question which had been much discussed, but all the great luminaries of political science were against it; and after what professor M'Culloch had said against it, he had come to the conclusion that if this principle was introduced into the English commercial law, it would be impossible to enumerate the evils which would follow its introduction. For these reasons he would do nothing whatever to extend the operation of the bill passed last year.

The *Lord Chancellor* said, that no opposition whatever had been offered to this bill in the House of Commons. It had certainly not passed without observation, but it had not been opposed. Whatever, however, might be the merits and demerits of the system of *commandite*, the present question was whether the present bill should or should not be permitted to pass in order to correct omissions and defects in the law as it stood.

The Duke of *Wellington* observed, that he was not all satisfied with the bill which passed last year, and he wished that some discussion should take place on this bill.

Debate adjourned.

IMPRISONMENT FOR DEBT—COMMONS AMENDMENTS.] The *Lord Chancellor* moved the consideration of the Commons' Amendments to the Imprisonment for Debt Bill, and observed, that the amendments introduced by the Commons consisted principally in the substitution of certain clauses, which had been submitted to him by the judges of the Bankruptcy Court at too late a period for their insertion while the bill was proceeding through their Lordships' House. They made no alteration in the main features of the bill. The only important amendment was in that which was now the eighth clause. Their Lordships were aware, that a variety of acts committed by bankrupts were what were called acts of bankruptcy. Thus, the denial of the bankrupt to a creditor in order to avoid payment of a debt, or lying in prison for a certain number of days without paying the debt for which he was arrested, were acts of bankruptcy. But these and other acts would not be acts of bankruptcy any longer, because, as arrest on mesne process would be abolished, the debtor would not deny himself to his creditor, as he would be no longer apprehensive of arrest. It was justly considered by the House of Commons, that such provisions would very much interfere with the operation of the bankrupt laws, and an amendment had been introduced to meet the proposed alteration in the law. The amendment provided, that if any single creditor, or two or more creditors being in partnership, to the amount of 100*l.*, or two creditors to the amount of 150*l.* or upwards, or three or more creditors to the amount of 200*l.*, or upwards, if any trader should file their affidavit, or affidavits, stating that such debts were justly due to them, and that a notice had been served on the debtor, requiring him within twenty-one days to pay such debts or to give security for their payment to the satisfaction of the creditors—then, if such debtor did not pay such debts within the twenty-one days, or give a bond as security for their payment, this should be deemed and taken to be an act of bankruptcy. The effect of this amendment would be to assimilate as nearly as possible the proposed law to that at present in force. The nonpayment of the debt would stand in the place of the arrest of the party and his lying in prison. It appeared, to him, that this amendment would wholly prevent the inconvenience anticipated to the operation of the bankrupt laws, and he, therefore, moved, their Lordships to agree to the amendments of the Commons upon this bill.

The Duke of *Wellington* said, that as his noble and learned Friend (Lord Lyndhurst) was not present, and another noble and learned Lord (Wynford), who sat on that side of the House, was not in his place, it would be proper to postpone the consideration of these amendments till the law Lords were in the House. He had another reason for postponing the consideration of the amendments upon this bill. When this bill was read a third time in that House, he took the liberty of suggesting to their Lordships the introduction of a clause of compensation to persons for the losses which they would sustain by the operation of the bill. He had called the attention of the noble Viscount opposite to the subject, and the noble Viscount's answer was, that it should be taken into consideration. He had since then given the noble Viscount a paper upon the question, and he certainly did expect, that the subject would be taken into consideration in another place, but he had observed what had passed there and he had not seen any symptom of its having been considered at all, and the bill had come back to their Lordships without any such clause of compensation. Now, these officers would, in his opinion, be very harshly treated in consequence of this omission; and he also did think, that when a bill of this nature passed that House in the shape it did, in consequence of the peculiar privileges of the other House of Parliament, it was rather a hard proceeding not to give those persons a fair chance of having their claims considered, especially when one of her Majesty's Ministers had promised, that the subject should be taken into consideration. He would, therefore, take the sense of the House upon the postponement, in consequence of the manner in which he had been treated upon this question. He entreated of the noble Viscount opposite to be so good as to take the subject into consideration; the noble Viscount said, that he would consider it—that was his answer—and, of course, he (the Duke of Wellington) thought, that it would be taken into consideration in the other House of Parliament. That had not been done—the subject had not even been mentioned, and these individuals had never had a chance of having justice done to them.

Viscount *Melbourne*—I am very sorry, I am sure. I thought, that compensation was given to the gaolers of the Cinque Ports by the bill. Is the noble Duke sure, that that is not the case?

The Duke of *Wellington*—It is not

Consideration of the Commons' amendments was postponed.

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HOUSE OF COMMONS,

Tuesday, July 31, 1838.

MINUTES.] Bills. Read a second time:—Slave Trade Treaties (Sicily and Tuscany); Militia Ballot Suspension; Private Bill Deposits.—Read a third time:—Ecclesiastical Appointments Suspension.

Petitions presented. By Sir R. INGLIS, from London, and a place in Kent, in favour of a more extended provision for the Church of Canada.—By Captain PECHELL, from Brighton Fishermen, complaining of the aggressions of the French Fishermen.—By Mr. BRAMSTON, from Chelmsford, for a repeal of the Beer Act.—By Mr. ADDAMS WILLIAMS, from Chepstow, against encouragement of Idolatry.—By Lord C. MANNERS, from a place in Leicestershire, against the Beer Act.—By the CHANCELLOR OF THE EXCHEQUER, from the Licensed Beer Sellers at Warrington, against any alteration in the present Beer Act; from Stockport, to the same effect; from the Yarn Manufacturers at Monaghan, to protect the Linen Trade of Ireland; from the Council of the Horticultural Society, to make the Botanical Garden at Kew a truly National Establishment for the advancement of Science.

BENEFICES PLURALITIES BILL.] Lord *J. Russell* moved the order of the day for the consideration of the Lords' amendments to this bill.

Mr. *C. Lushington* said, that the result of his hasty application and useless labor—hasty application, because he had only time to consider these amendments for one or two days, and useless labour, because to his illegal mind the greater proportion of the new clauses wh e wholly inexplicable.—the result of the hasty application and useless labour was a conviction that the bill was unintelligible. There were two civil doctors in that House, his relative and the hon. and learned Gentleman on the opposite side, and if they would undertake to understand the clauses in a week, so as to make them intelligible, he should be satisfied. The powers of the Ecclesiastical commissioners were greatly intrenched upon by having questions which should come under their jurisdiction referred solely to that of the Archbishop of Canterbury. The principle of this bill was originally very objectionable, and it was rendered more so by the amendments of the Lords. He should therefore propose that these amendments should be read a second time that day six months.

Lord *J. Russell* said, that the bill in its present shape contained all the main principles which were already sanctioned by the House. There were some alterations made by the House of Lords, but nothing to trench upon the main principles of the bill. He thought, therefore, that it would be unreasonable on their parts to accede to the amendment of the hon. Gentleman, and not adopt what was in fact their own bill. The hon. Gentleman had said, that the power of the commissioners was infringed upon, in giving the Archbishop of Canterbury the privilege of uniting and disuniting benefices. Now, as the commission never possessed this authority, it could not be said to be trenched upon by the change made by the House of Lords. Though he was sorry that some clauses had been struck out which were agreed to in that House, he still thought it very desirable that a bill which had undergone two year's consideration should not be rejected after having had so much pains bestowed upon it.

Mr. *Warburton* remarked that many of the changes made by the Lords were improvements; but as there were fifteen or sixteen new clauses, he thought they should be allowed a day or two to make themselves masters of the bill in its present shape.

Amendment withdrawn, and the farther consideration of the Lords' amendments deferred.

POST OFFICE.] The *Chancellor of the Exchequer* moved the third reading of the Post-office Bill.

Colonel *Sibthorpe* moved as an amendment that the Bill be read a third time on this day three months. He considered it as neither more nor less than a job, got up for the purpose of obliging the Parliamentary friends of Government.

Mr. *Ellis* rose to second the amendment of the hon. and gallant Officer, that the bill be read a third time that day three months. Since he had last spoken upon the subject, reflection had confirmed him in the objections he first entertained against the measure. The object of the bill was, to take the affairs out of the hands of the Postmaster-General and vest them in those of three commissioners; the first commissioner to receive a salary of 2000*l.* per annum; the other two, 1,200*l.* each, making altogether an expenditure of 4,400*l.* per annum. The expense of the present management amounted to 2,500*l.* yearly; it was, therefore, proposed to incur an excess of expense to the country of 1,900*l.* per annum. Why were three persons required to superintend this department? He had heard no sufficient reason alleged. On the contrary, power was taken by the bill to give the whole of its duties not absolutely to three—they might be conferred merely upon two, perhaps only upon one; and it might so happen, if the Lords Commissioners of the Treasury, should so think fit, that the administration of the Post Office would be given to no new commissioner at all, but kept entirely in their own hands. Moreover, by the bill, the new commissioners, if appointed, were exclusively to follow the instructions of the treasury, so that, possibly, they were causing an enlarged payment of 1,900*l.* a-year for the sole purpose of placing the affairs of the Post-office in the hands of a nominee of the Treasury. Did such an enactment betoken the wisdom of the Government plan? The hon. Member for Bridport stated the other night that with respect to postage the country was on the eve of a revolution; looking however, to what was likely to be the nature of the revolution—that it would almost entirely be based upon increased facilities of communication, demanding, certainly, not more, if not less, intelligence on the part of the head of the Post-office—he thought that was an argument for diminishing rather than increasing the expenditure of the establishment. But then the right hon. Gentleman the Chancellor of the Exchequer had said, that the main object of the bill was to have the chief commissioner eligible to a seat in that House. Why then had he not caused that to be specially enacted? At present the Postmaster-General sat in Parliament, though in the Upper House; yet, by the measure under consideration, it might be that, notwithstanding it would still be left open for a Peer to fill the office of chief commissioner, neither in one House nor the other would the chief commissioner have a seat—and thus the grievance mainly complained of, that of not having a person in the House of Commons to answer questions relative to the Post-office department, was liable to be left without a remedy. Again, he (Mr. Ellis) certainly conceived that whilst there was no objection for the Government to have a political associate in the House of Lords, he entertained a strong desire that the number of placemen should not be increased in that House; and, considering that such proposition came with a bad grace from the present Ministers, he should on that account, as well as for the other reasons he had stated, express his hearty disapprobation of the measure.

Bill read a third time and passed.

GROCERS' SPIRIT LICENCES (IRELAND) BILL.] Mr. *E. Tennent* moved the second reading of the Spirit Licences Bill. As he understood that the measure was to be opposed, he would very briefly state the reasons which had rendered its introduction expedient. In 1836, Mr. Perrin, who was then Attorney-General for Ireland, brought in a bill to regulate the granting of spirit licences in that country, and in that bill was inserted a clause prohibiting the granting of a retail licence to grocers. The object of this clause was to obviate the temptation to tipling and intemperance which was held out to servants and others by the facilities and secrecy afforded for obtaining spirits at shops where the parties were ostensibly led by other business. It was only in portions of the metropolis and not in the smaller towns of Ireland this complaint applied, in those places generally the sale of spirits formed but a portion of the business of those who were general dealers, men of character and of capital, forming usually the better class of shopkeepers and persons who had too much respect for themselves to permit their houses to be abused by intemperance of any kind. If these men were now to be forcibly excluded from this trade, it would inevitably fall into hands less safe, and be confined to parties with smaller capital and greater temptations to permit excess. The houses of the grocers were closed at early hours, and always so on the sabbath-day, which would not be the case if the sale of spirits were to be compulsorily thrown into the hands of publicans of limited means. Its object was only to continue the suspension of the act which had already been suspended for two years by an act brought in almost simultaneously with the suspended act, by the Chancellor of the Exchequer; for if the act now came into operation, it would do a great deal of mischief. He moved the second reading of the bill.

Mr. *Shaw* had the greatest objection to this bill, which if passed would convert all the grocers into spirit dealers, and thus increase an evil already enormous. He had exerted himself for several years to check intemperance in the city of Dublin, but if he were not assisted by the Government he could not hope for any success. He hoped therefore, that the noble Lord opposite would refuse his assent to this bill. He begged leave to move that it be read a second time that day six months.

Mr. *O'Connell* said, that the grocers, as a class, were more respectable than the publicans. and were more deserving of the spirit licences. If the object of the House was to repress drunkenness, it should altogether prohibit the sale of spirits. While the act appeared to be rather levelled at putting down grocers than drunkards. He had never in his life heard of any riot occurring in grocers' shops in consequence of their being permitted to hold spirit licences.

Colonel *Verner* said, with respect to the grocers of that part of the country with which he (Colonel Verner) was acquainted he could bear testimony to the excellence of their character.

Lord *Morpeth* felt himself in a peculiar position with respect to the bill. In the former measures which Government brought forward it was proposed to insert a clause prohibiting the sale of spirits on the premises by grocers, but a deputation of that body having been sent over from Ireland to remonstrate on the point, the clause was abandoned. A similar clause however, had been introduced by way of rider to the bill, and as he had not divided the House upon it after the deputation of grocers had left London impressed with the opinion that no such clause would be introduced, he felt almost as if he had broken faith with them, and would not therefore attempt to influence any votes upon the question.

The House divided on the second reading, Ayes 43, Noes 15—Majority 28

HOUSE OF COMMONS,

Wednesday, August 1, 1838.

MINUTES.] Bills. Read a first time:—Bank of Ireland Act Amendment.—Read a third time:—Prisons (West Indies).

Petitions presented. By Mr. HUME, from Licensed Victuallers, and Retail Beer Sellers of Salford, against any alteration in the Beer Act; and from the United Associate Presbytery of Dunfermline, against the monopoly of the King's Printer in Scotland.—By Captain ALSAGER, from Kennington and Camberwell, for a better provision for the Established Church in Canada.—By Mr. P. THOMSON, from Congregations of Wesleyan Methodists of Manchester, against Idolatrous practices in India.—By Mr. SANDERSON, from the Wesleyan Methodists of Colchester, to the same effect.—By Lord W. BENTINCK, from Calcutta, Madras, and Ceylon, in favour of a direct communication by steam from the Red Sea to the several presidencies of India and Ceylon.

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HOUSE OF LORDS,

Thursday, August 2, 1838.

MINUTES.] Bills. Read a first time:—Sardinia Slave Trade Treaties; Post-Office; Militia Ballot Suspension; Dublin Police.—Read a third time:—Hackney Carriages Metropolis.

Petitions presented. By the Earl of CARLISLE, several, from Wesleyan Methodist Congregations in Halifax and other places in Yorkshire, praying for the suppression of Hindoo Idolatry.—By Lord BROUGHAM, from the Prisoners confined in the Queen's Bench Prison, against the postponement of the operation of the Imprisonment for Debt Bill; from Paisley, against the Prison (Scotland) Bill; from the Maidstone Mechanics' Institution, and from Dingwall, in favour of Mr. Hill's Postage plan; a great number from various places, against Idolatry in India; from Bangor, against the Tithe system in Ireland; from Montrose, against the Parliamentary Franchise; from the same place, for a repeal of the Corn-laws; from London and its vicinity, for the Abolition of Negro Slavery; from Arbroath, against the Renewal of the monopoly of the Queen's Printer in Scotland; from Huddersfield, against the Beer Act.

MAGISTRACY (IRELAND.)] The Marquess of *Londonderry* regretted, that he was obliged again to bring under their Lordships' consideration the great change which had recently been made in the Irish magistracy. He was unwillingly obliged to pursue this course, because a noble Marquess (Normanby) had, on a former occasion, when the subject was introduced, asserted that he had brought forward statements in the absence of the lord-lieutenant of the county of Down, in the correctness of which the noble Marquess (Downshire) who held that important office did not concur. He was willing, in considering this question, to act upon the principle distinctly laid down the other night by the noble and learned Lord on the woolsack, who said, that "no person could be removed from the commission of the peace without a certain degree of imputation being cast on him; that, therefore, reasons should be given for such removal; because every man was entitled to have justice done him." On this principle he was willing to rest. Now, he found, that on the revision of the magistracy no less than twenty magistrates were removed in the county of Down—in a Protestant county, a peaceable county, where, he would contend, no possible reason could be adduced for making such an alteration. But while the Irish Government got rid of so many magistrates, they introduced others, who, he supposed, were put in the commission because they had adopted the political opinions of the noble and learned Lord the Chancellor of Ireland. The individuals thus dismissed were amongst the most worthy, the most enlightened, and the most intelligent gentlemen of the county. Since he formerly adverted to this subject he found, that out of the twenty magistrates who had been rejected, no less than eight had been restored. Now, as eight were restored, he should very much like to know why those eight had been dismissed? The noble and learned Lord might say, that none were dismissed without reasons being assigned, that a careful examination took place in the first instance, and that before any step was taken the lord-lieutenant of each county was called on to make such observations as he deemed necessary. Now, if they looked to dates, they would find that no such fair consideration, so far as the lords-lieutenant were concerned, could have taken place. The subject was eight months, indeed, before the Irish Government, but it was not until the month of May last that the lords-lieutenant were called on to give their opinion. The Irish Government took eight months to make up their minds as to what they meant to do, and they gave to the lords-lieutenant one month to state their opinion on those proposed dismissals and selections; for in the month of June last they made out their new commission. The lords-lieutenant, therefore, had not a proper opportunity of considering the subject. Indeed, at the time many of them were in this country attending their Parliamentary duties. There were seven other gentlemen excluded from the commission, most respectable men and most excellent magistrates, and against whom no charge or ground of complaint had ever been made. Why, he asked, were not these seven gentlemen also replaced? The case of Mr. Corry appeared to him one of the greatest hardship and injustice, and by no means creditable to the Irish Government. For thirty-five years had that respected gentleman been in the commission of the peace, yet he was kept six months in anxious suspense not knowing whether he should be continued in the commission or even be allowed to die without the consolation of knowing that no charge rested upon his character, The treatment which Mr. Corry received was so monstrous, that he should certainly move that copies of the investigation, and the correspondence which passed between him and the Irish Government, together with the opinions of the law officers of the Crown, should be laid upon the table of the House. The second case was that of the rev. Holt Waring, the clergyman of a respectable congregation, and a man of large landed property in the county. The noble and learned Lord (Lord Plunkett) had stated upon the occasion of the former discussion upon the subject, that Mr. Waring's name was not inserted in the new commission because he had left his parish a day or two before the 12th of July, instead of remaining at home to soothe the angry feelings which were likely to arise, and to control the improper proceedings of the Orangemen. It turned out, however, upon inquiry, that the grounds upon which the noble and learned Lord stated, that Mr. Waring was not replaced had no existence inasmuch as, that rev, Gentleman had gone away a long time before, and for a far different purpose. He had received a letter from that rev. Gentleman, in which he stated that he was not at home at the time, having been detained in Dublin upon business. He further stated, that he did not reach his residence at Waringstown until the 14th, a few days after when he found his peaceful village taken possession of by an armed force of military and police although no breach of the peace had been committed and there was nothing to justify the occupation of the place by the military, except that there was an Orange flag upon the Church, which could not possibly be construed into a breach of the peace. The third case to which he wished to draw the attention of their Lordships was that of the rev. Mr. Sampson, a clergyman, and a man of fortune. In his (Lord Londonderry's) opinion, the dismissal of such men from the magistracy was taking away the best support of the law and of the Government in the county, and doing a gross injustice to the individuals themselves. While others upon whom the strongest censure had been passed by Government itself were replaced in the commission, Mr. Sampson was excluded. It appeared that in 1834 a memorial was sent to the lord-lieutenant, stating complaints against Mr. Sampson for the manner in which he collected his tithes. The lord-lieutenant sent down an authenticated copy of the memorial, to which was attached the signature of Mr. Lindsay, a gentleman whose name was continued in the commission, though that of Mr. Sampson was excluded. An inquiry was directed, and a meeting, consisting of the greater part of the magistrates of the county, was held at Banbridge, for the purpose of investigating the charges contained in the memorial. The result was, that all the charges received the fullest contradiction by the sworn testimony of the churchwardens and the parishioners. Several witnesses, whose names were attached to the memorial, stated, that they had never signed, or permitted or authorised their names to be signed to it. It also turned out that many of the signatures were fictitious, and many fraudulently obtained. Many persons had signed it who were not cess-payers at all, and it contained the names of six persons who were dead. The magistrates, at the conclusion of the proceedings, came to a resolution that they no longer act in concert as magistrates with Mr. Lindsay, in consequence of his conduct respecting this transaction. Resolutions were drawn up and signed, and sent by the magistrates to the lord-lieutenant of the county to be by him transmitted to the lord-lieutenant. A copy was also sent to Mr. Lindsay. The papers were accordingly sent to the lord-lieutenant, and by him referred to the Lord Chancellor for his decision. Perhaps it might be necessary to explain to their Lordships how this letter had come into his possession. He understood that permission to communicate it to the magistrates had been asked, and not withheld. It had accordingly got into circulation throughout the country, and its contents became generally known. The noble and learned Lord in this letter said, that he had no hesitation in saying, that Mr. Lindsay's conduct had been most indiscreet and blameable, and that Mr. Lindsay owed it to himself to make Mr. Sampson some apology for his conduct. The noble and learned Lord considered, however, that he should not be justified in removing Mr. Lindsay from the magistracy, as the matter had not occurred in his magisterial capacity. If the noble and learned Lord was not justified in removing Mr. Lindsay's name from the old commission, surely he had good grounds for not including him in the new. The noble and learned Lord went on to say, that he was not surprised at the determination which the magistrates had come to in refusing to act in concert with Mr. Lindsay; but he hoped they would not persist in it, as it would interfere with the public business. He also expressed his entire conviction of the propriety of Mr. Sampson's conduct. He should make no observations on the effect which the political principles of Mr. Lindsay might have had in reference to those proceedings, but he should say, with respect to Mr. Sampson, that he possessed more property than any clergyman in the neighbourhood. Their Lordships might pretty well judge of the spirit which regulated the dismissal and appointment of magistrates in Ireland, when he called their attention to the declaration made by Mr. O'Connell at a dinner of the friends of the St. Bridget's Orphan Asylum, where that gentleman presided. Mr. O'Connell assured the company then assembled, that the Irish magistracy must undergo a complete revision, that the matter was in the hands of the Lord-lieutenant, that it could not possibly be in better hands, and that for the future all partisan magistrates would be relieved from the labours of the office of justice of the peace, and be at liberty to retire into private life. The conduct of the noble and learned Lord opposite, as far as it related to the magistracy in Ireland, went most fully to carry into effect the threat implied in the language of the hon. and learned Member for Dublin. Mr. Chemies, a magistrate, who had been fifty years in the commission of the peace, was dismissed. [Lord *Plunkett:* He has since been restored.] If so, it must have been within the last forty-eight hours. The noble Marquess concluded by moving for copies of all minutes of proceedings connected with the investigation held at Newry on the 10th of last October concerning the conduct of Mr. Trevor Corry: copies also of the charges preferred against that gentleman by Mr.

Power; copies of all correspondence between the Irish Government and any person or persons on that subject; copies of the opinions of the law officers of the Crown relating thereto; minutes of any public meetings held or resolutions adopted on the subject, together with any letters referring to it which might have passed between the Lord-lieutenant of Ireland, the Chancellor of Ireland, or the lord-lieutenant of the county of Down.

Lord *Plunkett* said, he should have no objection to the production of any letters written by him. Neither should he resist the production of letters written by the lord-lieutenant of the county of Down, provided that noble Lord had himself no objection: but he considered all communications coming from lords-lieutenant of counties as strictly confidential, and, as a general rule, he should resist their production, unless with the consent of the writer. As to the opinions of the law officers of the Crown, he should not consent to their production, it would be contrary to all precedent. He should now apply himself to the cases of Mr. Trevor Corry, Mr. Lindsay, Mr. Holt Waring, and Mr. Sampson. In the first place he begged to say, that he had never, in any instance, acted upon charges made against magistrates without affording them a full and ample opportunity of making a defence, and he could say, that that rule had always governed his conduct in cases where there had been any dismissal. But the case was different where new commissions were made out, and names omitted which had previously been in the commission. The House must see, that it would be impossible to institute a particular inquiry into every case of the omission of a name. With respect to the case of Mr. Trevor Corry, it was to him one of the most painful character, owing to the death of that respected gentleman. He could not defend himself without a reference to circumstances which might seem to cast censure on one no longer alive. Nevertheless, in justice to himself, he must state the charges preferred against Mr. Corry: they were, that he, being a magistrate and going about the town of Newry, accompanied by some of the police of that town, did take a person into custody, and, though he had been guilty of no breach of the peace, had him manacled and kept in confinement for several hours. No other cause for this appeared than that the person so confined had given offence to Mr. Corry's political friends by the measures in which he had engaged connected with secreting voters at the time of the election. That was certainly a gross outrage, and especially so when committed by a magistrate. The fullest possible opportunity for explanation was given to Mr. Corry, and an investigation took place, over which a learned barrister presided; several witnesses were carefully and minutely examined, and the facts were established against Mr. Trevor Corry. It was rumoured, that he intended to prosecute those witnesses for perjury. He was not in the counsels of Mr. Trevor Corry, he therefore could not say, whether he possessed the will to institute such a proceeding, or the means of doing so with success; but so long as any probability remained of his prosecuting for perjury, he thought it better to wait for a general revision of the magistracy of the county than proceed to a direct dismissal, and this accounted for the delay of which so much complaint had been made. That gentleman having, however, ultimately failed to bring forward the prosecution for perjury, he (Lord Plunkett) was obliged to take the step which had been merely suspended, and to proceed to dismiss Mr. Corry from the magistracy. The noble Marquess opposite would bear him out, when he stated, that representations having been made to his Excellency, the Lord-lieutenant of Ireland by the noble Marquess, the lord-lieutenant of the county of Down, an investigation was ordered into the circumstances of Mr. Corry's case, during the progress of which the melancholy event of Mr. Corry's death took place. So far as Mr. Corry's case was concerned, he did not believe that he had violated any principle either of justice or of humanity. On the contrary, he had been actuated throughout, by a desire to show every feeling of respect for that gentleman's highly-respectable connexions. With regard to the case of Mr. Holt Waring, the noble and learned Lord then repeated the statement which he made some days since in the House of Lords, and which was reported in *The Times*, to the effect that Mr. Waring was in the first instance ineligible to be placed upon the revised list of the magistracy, as a clergyman; and secondly, that on the 12th of July last, that gentleman having absented himself from Waringstown (and he having been formerly chaplain to the Grand Orange Lodge of Ireland), an Orange flag was hoisted upon the steeple of his church during his absence. He did not say, that the rev. Gentleman absented himself purposely; but he certainly looked upon the circumstance as rather more than suspicious. The opportunity to give an explanation, had been afforded to Mr. Holt Waring, of making any explanation which he might desire; the case rested in his hands. No such explanation had as yet reached him. He had stated to the noble Marquess, the lord-lieutenant of the county of Down, that he should be most willing to restore Mr. Holt Waring to the magistracy, if the conduct which he had displayed in former years upon the 12th of July were not repeated. He had not, however, as yet received any explanation of the rev. Gentleman's absence upon the last 12th of July. He hoped, that he should yet receive that information; and upon his receipt of it, it would give him great satisfaction to restore Mr. Waring to the magistracy. With regard to the case of Mr. John Lindsay, the noble Marquess stated, that that individual had been guilty of forgery.

The Marquess of *Londonderry:* I merely stated, that he had sent forged instruments to the Government.

Lord *Plunkett:* The noble Marquess charged him with being the instrument by which these forged documents were forwarded to the Government.

The Marquess of *Londonderry:* What I said was, that Mr. Lindsay was the medium of forwarding to the lord-lieutenant a memorial, to which certain false signatures were attached, some of those signatures being of persons who had died, and others the forged signatures of persons living; and I further observed, that he had stated before the magistrates, that those fictitious signatures were true signatures.

Lord *Plunkett:* The impression on his mind was, that if the noble Marquess did not say, that Mr. Lindsay had forged the instrument, he had at least uttered the instrument, knowing it to be forged.

The Marquess of *Londonderry* hoped, that the noble and learned Lord would not endeavour to fix upon him any thing which he had not in reality stated. The noble Marquess then repeated the terms of his former statement.

Lord *Plunkett* assured the noble Marquess, that he had no desire whatever to misrepresent him. He would take it as the noble Marquess took it, that with respect to those fictitious signatures, there was no charge against Mr. Lindsay. The magistrates, however, did not look upon the case in that harmless point of view. They had held a meeting in the month of July, at which a deputy lord-lieutenant of the county had presided, and came to a resolution, stating, that in consequence of Mr. Lindsay's conduct with respect to these fictitious signatures, they would no longer sit upon the same bench with him. He did not know, whether Mr. Lindsay had been imposed upon or not by those fictitious signatures; but here was the fact, that the magistrates refused to sit on the same bench with him. The noble Marquess should, however, have followed up this statement with regard to Mr. Lindsay, by stating, that a subsequent meeting of the magistrates was held in the month of August, at which five or six of them expressly declared, that they did not impute to him any share or knowledge of the improprieties connected with the forging of the signatures in question. The noble Marquess should have stated, that these magistrates thus retracted the charge of forgery which was originally made against Mr. Lindsay. He had been induced to appoint that gentleman to the magistracy, in consequence of a letter which he had received from the noble Marquess, the lord-lieutenant of the county of Down, stating, that Mr. Lindsay was a very respectable man. He had accordingly appointed Mr. Lindsay without any inquiry as to his political feelings. Was he to remove Mr. Lindsay from the magistracy on account of this transaction, more particularly when the charge of forgery was withdrawn? In point of fact, the charge was not insisted upon that Mr. Lindsay had knowingly deceived any person; all that was required, was an apology from Mr. Lindsay. The magistrates said, that they did not object to sit upon the same bench with him, provided he made the apology. Now, it certainly would be rather a strong thing to call upon him to dismiss Mr. Lindsay, because he had not made that apology. The noble and learned Lord read Lord Downshire's letter in 1833, recommending Mr.

Lindsay to the situation of magistrate. He also read the copy of a letter written by himself in August, 1834, to Lord Downshire, with reference to the memorial against the rev. Mr. Sampson. In this letter, he described Mr. Lindsay's conduct with reference to that description, as highly indiscreet, and stated, that it was due both to himself and to Mr. Sampson to make that gentleman an ample apology, but that he doubted, whether he could at all take cognizance of the circumstance, as it had not occurred in Mr. Lindsay's magisterial capacity, and it would require a great deal of argument to convince him of the contrary. The noble and learned Lord proceeded in this letter to express a hope, that the magistrates would not allow any personal resentment to interfere with the discharge of their sworn duties; and, in conclusion, he expressed his entire opproval of Mr. Sampson's conduct.

The Marquess of *Downshire* inquired whether the noble and learned Lord had the letter written by him in reply?

Lord *Plunkett* replied, that he had not brought the letter with him; but, that if the noble Marquess desired it, he had not the least objection to produce it, and to this part of the noble Marquess's (Londonderry's) motion, he was quite ready to assent. The noble and learned Lord next read a letter addressed by him on the 27th of August to the Marquess of Downshire, in which he announced his receipt of Mr. Lindsay's memorial, and stated, that he owed it to Mr. Sampson to say, that his opinion of his conduct remained unchanged. The charge against Mr. Sampson was, that having compounded with his parishioners at the rate of 1*s.* an acre for his tithes, he had afterwards claimed under the Corporation Act, 1*s.* 6*d.* an acre. He was bound to say, that he considered Mr. Sampson to have explained the circumstance in a satisfactory manner. He should have felt great difficulty on this part of the case in removing a magistrate for any mere act of impropriety which he had committed not in his magisterial capacity; but he was relieved from this by a letter from Mr. Lindsay, in which he stated, that upon reflection he should not employ the expressions which he had used; and he went on to say, that he could not make any apology until the resolution of the magistrates was rescinded. Now, he must say, that he thought Mr. Lindsay was quite justified, after the charge which had been brought against him, in refusing an apology until those resolutions had been withdrawn. His answer was, that he was not a judge of etiquette, and that it was impossible for him, as holding the great seal, to point out what apology one gentleman should give to another, and he inquired whether any of the gentlemen in question could seriously reconcile it to their sense of duty to decline serving on that account. Now, he would beg to ask their Lordships, whether he had not shown a proper attention to the feelings of Mr. Sampson on the one side, and a proper feeling of caution as to displacing a magistrate on the other? One word more as to Mr. Lindsay. He believed, that the magistrates did take his advice, and did not refuse to sit with Mr. Lindsay, and that Mr. Lindsay did continue to be a magistrate two years. In the mean time, a general election had taken place, and Mr. Lindsay had taken an active part in the election. The matter was then revived, and the complaint was made, not on account of his having refused to make an apology—not for the memorial which he had presented—not for anything done to Mr. Sampson, but for his having taken an active part in the election. He was not aware that anything had taken place since that time to inculpate him. There had been no restoration in this case. Mr. Lindsay had continued to be in the commission of the peace. Therefore, when it was said, that the removal of Mr. Sampson and the restoration of Mr. Lindsay were simultaneous, it was a complete mistake; and, further, Mr. Sampson was not removed till two years after this transaction. He would now merely show the way in which the list of magistrates had been so much reduced. The entire number of magistrates was originally 4,160. The reduced list amounted to 2,690, so that the difference between the original and the reduced list would amount to 1,740 omissions. This would certainly appear to be a very extraordinary amount of omissions. But, in the first place, out of these 1,740, no less than 450 were dead; 252 were members of the police force, and were necessarily removed from the magistracy; 134 were military, and were removed on that ground, and 230 were clergymen, and were, on that account, removed. These amounted in round numbers to 1,070 persons. Of the remaining

400 persons, 64 had been restored; that was his (Lord Plunkett's) crime; and as to the 336 yet remaining, that made an average in each county in Ireland of 11 magistrates. Now, of these some were disqualified for non-residence; some for non-attendance at petty sessions; others were disqualified from want of property, or disabled by holding certain offices, such as that of coroner, or secretary to the grand jury, and the like. There were only three or four cases where the parties were removed on special grounds. One of these persons had been removed because he had been convicted of using false weights, and another for forcibly marrying. He supposed the noble Marquess would not insist on his retaining these persons in the commission of the peace.

Lord *Brougham* thought there would be no objection to his noble and learned Friend's reading these letters in his place; but he saw a great difficulty in an address to the Crown, calling on the Lord Chancellor to make public his private letters and communications. Besides, it would not do to ask only for the letters of the Lord Chancellor, and not the confidential letters of the lord-lieutenant. He could not consent to a garbled correspondence. In his opinion, his noble and learned Friend had met the charges made against him most fully, and it seemed to him that if this motion were agreed to, it should be agreed to with a most particular protestation against its being drawn into a precedent, and when a protestation of this kind was necessary, it was the safer way not to call for the correspondence at all.

The Marquess of *Downshire* expressed a hope that the noble and learned Lord would not object to the production of the papers arising out of the inquiry into the conduct of Mr. Trevor Corry. A very full investigation took place in the month of October last, and after the inquiry had terminated, no communication was made to Mr. Trevor Corry by her Majesty's Government in Ireland as to what they intended to do. They gave him no answer whatever, and in February he wrote to Mr. Drummond, the secretary of the Lord-lieutenant, to know what the Government intended to do. Now, Mr. Corry and his brother were the first persons in the county of Down, who took upon themselves to hold petty sessions before they were called upon to do so by the Government, and before they were required by law. Everybody well knew the advantages which had arisen from the establishment now generally throughout Ireland of petty sessions, and Mr. Trevor Corry, who had been a magistrate of the county of Down for upwards of thirty years, had been the first person to establish them in Newry, a large and populous town, with a great trade, and consequently affording much business to be done by magistrates. The hardship which had been felt by Mr. Trevor Corry was, that the accusation having been made against him last year—an accusation which, from the best information, he (the Marquess of Downshire) could state was unfounded—an investigation took place, and that gentleman was removed from the commission of the peace after that investigation had terminated, and without any communication being made to him by the Irish Government. That removal had made such an impression on the mind of Mr. Trevor Corry, who was a man of most sensitive feelings, as considerably to increase the indisposition, which last month was terminated by his decease. It was but just that he should add, that Mr. Corry was a man of the highest respectability; that he had been intrusted by the Bank of Ireland with the management of their branch bank in the town of Newry, and was altogether a most fit and proper person to perform the magisterial duties. The noble and learned Lord contended, that he had done nothing more than his duty in the course which he had pursued, but the misfortune was, that the noble and learned Lord had not had the whole of the facts before him. He rejoiced the matter had been brought before the House, and had been listened to by their Lordships with such becoming attention, as it would show not only the friends of the late Mr. Corry, but also the country generally, that in this House the complaints of any class of her Majesty's subjects would always receive that consideration which they deserved. He could not but complain, that the late Mr. Trevor Corry should have been kept waiting from the month of October last until his death without any communication, and that he should never have been informed by the Irish Government whether or not the Government considered the charges well-founded or not; indeed, the only information he received, was the omission of his name from the revised list of magistrates. This Mr. Corry had felt deeply, and the circumstance had a most serious effect upon his health. With regard to the case of Mr. Holt Waring, he (the Marquess of Downshire) must say, that his communications to the noble and learned Lord opposite had met with every attention and respect. Mr. Waring was a gentleman of large landed property, and the complaint against him was, that he had absented himself from his residence and his duty previous to July 12, 1837, and the noble and learned Lord seemed to think, that Mr. Waring had gone away purposely. Such, however, was not the fact; for there had been a letter from that gentleman stating, that he was detained in Dublin on particular business, which prevented his return home until two days after the 12th of July, 1837; and, with respect to that day in the present year, there had been no display of emblems to an extent to make his presence necessary. The cases of Mr. Lindsay and Mr. Sampson had been investigated so long ago as the year 1834, and on that occasion Mr. Trevor Corry had interfered, and endeavoured to reconcile the differences between those two gentlemen. The then Lord-lieutenant (the Marquess Wellesley) himself interfered as a mediator, and all regretted, that the efforts made to effect a reconciliation did not succeed. The rev. Mr. Sampson, however, acted in a manner highly creditable to him, both as a clergyman and a gentleman, and if he had to choose between the two gentlemen, he should certainly prefer for the magisterial bench Mr. Sampson to Mr. Lindsay. With regard to clergymen serving as magistrates, he could only say, that in the county of Down it was difficult to induce them to take the office. On the whole, he contended, that the state of peace and tranquillity, and the absence of crime from that county, was highly creditable to the magistracy.

The Earl of *Wicklow* said, that though he had no connexion with the county in question, still he wished to say a few words on the subject now before the House, in consequence of what had fallen from the noble and learned Lord the Chancellor of Ireland: He thought the noble and learned Lord would have adopted a better and more Parliamentary course if he had at once declined to produce the papers, and not to throw on the House the duty of negativing a motion for papers which ought not to be granted. As the noble and learned Lord opposite had appealed to those Members of the House who were lords-lieutenant of counties, he (the Earl of Wicklow) must declare, that as far as his experience went, he had no reason to complain of the revision which had taken place in the lists of magistrates for the county with which he (the Earl of Wicklow) was connected, and he was especially satisfied with the omission of clergymen from those lists. At the same time, he thought the Irish Government ought to have found other persons who were willing to take on themselves the magisterial duties, so that no district should be left totally unprovided for in that respect. With regard to the statement of the noble and learned Lord in reference to the cases of Messrs Lindsay and Sampson, he was perfectly satisfied; he, however, was by no means satisfied with the noble and learned Lord's statements with regard to Mr. Trevor Corry and to Mr. Holt Waring. The former had great right to complain, that he had never been informed of the result of the investigation. The result, however, upon which the noble and learned Lord had acted was, that Mr. Corry had manacled and kept in prison an individual for some hours. Now, did not the noble and learned Lord know, that instructions were issued to all the police of Ireland, that they should take no person prisoner without putting handcuffs upon him? He admitted the harshness of those instructions, but the fault lay with the Government who issued them. Again, if the party was kept manacled in prison, the fault rested not upon the magistrate, but on the gaoler. The charge was not so much against Mr. Corry as against the persons in authority at the gaol. The whole case against that gentleman was, that there was a riot, and he handed a person over to the police. A more weak case he never heard brought against any individual. Then, with respect to the case of Mr. Waring, he had been the secretary of an Orange society, but it was subsequent to the dissolution of that society, that he was dismissed. It was true, an order had been issued, that no person connected with the Orange body should be introduced to the magistracy, but as soon as that body, which, be it remembered, had originated under royal auspices, and had grown up under the sanction and encouragement of former Governments of this country, were given to understand, that it was the wish of the Government that they should dissolve their institution, to which they had been attached from their infancy, as it were, and in which all their feelings had been enlisted, they did dissolve it; and, therefore, so far from the fact of Mr. Waring having been an Orangeman forming an objection to him, it was a reason why he should be retained. But, because, during his absence from home, some person hoisted an Orange flag on his church, the noble and learned Lord determined to dismiss him, without taking the trouble to call upon him for any explanation, or inquiring into the real circumstances of the case.

Lord *Plunkett:* He was not dismissed because he had belonged to an Orange lodge, nor because of the flag being put up on his church, but because he was a clergyman.

The Earl of *Wicklow:* Then why introduce the flag at all? Why talk of his having been an Orangeman, if it had nothing to do with the case? If he had been dismissed only on account of his being a clergyman, that altered the case; but then why not simply state that? He thought that the noble and learned Lord had made out no case whatever with regard to Mr. Corry to justify the severe and cruel manner in which he was treated.

The Earl of *Glengall* complained of the power which was exercised by the stipendiary magistrates, and said, that he, for one, as a magistrate, would rather resign his commission to-morrow, than have his conduct inquired into by the stipendiary magistrates alone. There were fifty-four magistrates in Ireland, besides some others, who, in fact, also were stipendiary magistrates. Before the passing of the Police Bill, there were twenty-five magistrates, since which twenty-nine had been appointed, of whom twenty-three had never before held any other similar office, and were placed over the heads of ninety-six constables, every one of whom had served more than ten years in the constabulary. It was very well known how those gentlemen got appointed — namely, through the interest of their friends in Parliament, although, if he recollected rightly, both in that House and in another place, it was agreed, that the appointment of these stipendiary magistrates should not be made a subject of Parliamentary patronage. In fact, it was not necessary to look to the names of the newly appointed magistrates to discover the influence to which they owed their appointments. The similarity between their names and those borne by gentlemen "elsewhere," at once suggested the source. It was understood in that House, that Colonel Shaw Kennedy was to be at the head of the force, and that he was to be held responsible for the appointments; and on the faith of that understanding, the bill was allowed to pass. But Colonel Shaw Kennedy was no longer at the head of the force, and if public rumour spoke truly, and it very often did, Colonel Shaw Kennedy resigned, because he was interfered with in the correct performance of his duty. He did, it was said, object to the appointment of many of these gentlemen, but he was overruled, and these were, he believed, the main grounds of his resignation. The bill never would have passed, but that it was understood Colonel Shaw Kennedy was to have the control of the force; such a state of things no longer existed, and he could not help expressing his surprise, that Government had refused to lay on the table of the House the correspondence which had passed between Colonel Shaw Kennedy and the Irish Government, and which, if produced, he had every reason to believe, would show the interference of the Government in the manner he had described. He was sorry the session had been allowed to pass without an inquiry being instituted into the appointments of the police force in Ireland. The House would recollect, that the force was composed of 8000 men, that they performed duties of a very onerous character, and, therefore, the House was bound to look with great jealousy at the appointments made by the Government. He trusted, the next Session of Parliament would not be allowed to pass without an inquiry taking place.

Viscount *Melbourne* said, it appeared to him, that the noble Marquess opposite had displayed somewhat of unjustifiable solicitude about the case of Mr. Corry, in supposing that his ignorance of the result of the proceedings had brought on an excitement which had hastened his death, because he must have known the result, having threatened to institute proceedings against the witnesses against him for perjury. If the conduct of Mr. Corry was not such as had been stated by the persons examined in the investigation which took place, then, of course, the noble and learned Lord had not acted right in removing him; but there was no proof to the contrary. With respect to the case of Mr. Waring, he agreed most entirely with the noble Earl opposite, that his having been secretary or chaplain to the Orange lodge should not be a reason for his not being placed in the magistracy, nor the other circumstance which had been stated. But it appeared advisable, as a general rule, to exclude clergymen from the commission; he did not, however, go the length of the principle, that they should have nothing at all to do with secular concerns, but only that there was an objection that clergymen should be appointed magistrates, except in circumstances which made it necessary and unavoidable. With respect to the motion made by the noble Earl, he had no objection to the production of the minutes of the trial of Mr. Corry; but it was clear, that it would be unwise, except in very straitened cases, and under very peculiar circumstances, to produce the communications which had taken place between the lords-lieutenant of counties and the Lord-lieutenant of Ireland, because those communications ought to be open and unrestrained, and it could not be so, if it was to be produced on any and every occasion when it was demanded.

The Earl of *Charleville* said, that he considered Mr. Trevor Corry had not been fairly treated. The noble Viscount stated that he knew nothing of the case, but what he heard in the debate; now the inferences he drew were so illogical, and the conclusions he came to so unjust and contrary to fact, it did not require this confirmation of the fact from the noble Viscount, which was so apparent to all noble Lords who knew something of the case. The noble Viscount stated, that the Government did not dismiss Mr. Corry sooner because Mr. Corry had intimated his intention to prosecute his accusers for perjury; but the facts were these—a court of inquiry assembled to try Mr. Corry on the 10th of October—they reported immediately; Mr. Corry was left in the most painful state of anxiety and suspense for four months, and at the end of four months and not before—he held the letter in his hand, dated the 20th of February last, did Mr. Corry inform the Government of his intention to prosecute? Mr. Corry says, "four months have now elapsed; I have heard nothing from you, I suppose, therefore, as I continue to hold the commission of the peace, the Lord-lieutenant is satisfied of my innocence—will you furnish me with copies of the depositions that I may prosecute my accusers for perjury." The answer he got was, if you summons Mr. Plunkett as a witness, he will produce the documents you require. Mr. Corry was not given copies, and had no means to prepare his case, had his legal advisers been of opinion he could prosecute on such documents successfully, for perjury. Now the noble and learned Lord, the Lord Chancellor of Ireland, admitted, as he understood him, that the man M'Intier, who made the charges against Mr. Corry had failed in three out of four charges. He was proved to have sworn falsely on the other charges, by men of the highest character and respectability—he was then a perjured witness; yet upon the testimony of such a man, refuted as the majority of his charges had been, was this harsh and cruel measure of injustice inflicted upon a useful, honourable, and respected gentleman. The noble and learned Lord admits all this, but, says the noble and learned Lord, the man was handcuffed, marched off a prisoner, and placed in gaol. For the sake of argument he would admit the facts to be so. But hear Mr. Trevor Corry—on his honour, as a gentleman, Mr. Trevor Corry says, he has no knowledge of this man, M'Intier, that he did not know him by sight, that he has no recollection of seeing him, and that he did not order him or any other man to be handcuffed that night. That it was no whim of his that caused him to be placed on duty that night, that the order emanated from the magistrates, local and stipendiary—he was accompanied by a chief constable and some police, and that entrance was guarded by a party of the 38th regiment. Those orders were given by the magistrates generally, and he only took his regular turn of duty. That the man was taken and handcuffed is possible or true, but that Mr. Corry did not interfere in the case, for in fact there was nothing to call for his interference. Now this man went on to charge Mr. Trevor Corry with divers illegal acts—assaulting him, hitting him with a gun, &c.—every tittle of which was disproved by Captain M'Cleod, the officer of the 38th, Mr. Hill, chief constable, Mr. Isaac Corry, Mr. John Leech —in short, the noble and learned Lord admitted such to be the fact; so he would not dwell further on those charges, but come to the arrest and handcuffing. The noble Earl behind him had told their Lordships that the Government had ordered all prisoners to be handcuffed. That disposed of that part of the subject; now he must refer to another standing order of the Government. He appealed to noble Lords connected with Ireland accustomed to act as magistrates, who must know the general order he alluded to, namely, that any and every police patrol, at night, were directed to examine and take an account of persons they met out at night, and that if they could not satisfactorily account for themselves, or were unknown to the police, especially if armed either with fire-arms or weapons of offence, their orders were to arrest them, and keep them in a place of security, the guard-room, gaol, or bridewell, and there keep them till morning, or till they satisfactorily accounted for themselves. This was no new order—he believed it was given in the time of Sir John Harvey. He knew it was acted upon—often most beneficially; he knew murderers, who had been apprehended by it, who would, otherwise, have escaped. Now the town of Newry was in that state, which induced the magistrates to take precautions. This man was found armed—the patrol would act under the directions of the Government; and his conviction was, that Mr. Trevor Corry was not appealed to, and knew nothing of the case. Now, that this man was a suspicious character, and that the police were not far wrong in suspecting him, appears from the fact that on the very next night this man made a forcible entry into a house, and was guilty of the crime of abduction. Yet on the evidence of this perjured witness, you inflict injury, injustice and insult on Mr. Corry, who had nothing to do with the case; and the police who handcuffed the man acted under your own orders, emanating from the castle of Dublin. The noble and learned Lord said he was charged, as if he had committed a crime, with having reinstated certain magistrates. He heard no such charge. But this he would say, come from where it might, such a charge would receive no support from him. He thanked the Lord Chancellor of Ireland for his courtesy, for the attention he paid to his representations for the anxiety he manifested to correct the errors in the commission for the King's County; and he tendered him his best thanks for this tardy act of justice in restoring those magistrates to whom he alluded to the commission. But did this alter his opinion of the impropriety of his original conduct? Not in the least. He regretted it, because he would ask the noble and learned Lord, than whom no one better knew the feelings of the people of Ireland—he would ask noble Lords connected with that country, what would be the effect on the public mind in Ireland? The noble and learned Lord knew full well that the people there would not believe that the noble Lord had acted on principles of justice. They would attribute his conduct, erroneously he would admit, but they would attribute it to fear of exposure, dread of inquiries, favouritism, the force of a power here too strong for him to stand or contend against; in short, to anything—to everything but that to which he attributed it, namely, an honest desire on the part of the noble and learned Lord to correct the errors into which he had unfortunately fallen, and to act on principles of justice towards those, who, on false representations he had been induced to leave out. Much as he regretted the original omissions, he heartily thanked him for the course he had since adopted in the King's County.

The Marquess of *Londonderry*, in reply, said it did not appear that the case of Mr. Lindsay was much better than the rest. At the second assembly of magistrates, held at Banbridge on the 6th of August last, resolutions were passed, condemning Mr. Lindsay and completely exonerating Mr. Sampson. That was the opinion of twenty magistrates of the county of Down, who went on to state, "That under all the circumstances, they considered it right that it be proposed to Mr. Lindsay to make an apology." These resolutions were known to all Ireland, and it was on them that he had formed his opinion in regard to Mr. Lindsay. He had no desire to press for the papers of Mr. Lindsay, and he would therefore wave that part of his motion, and confine it to the papers relating to Mr. Trevor Corry and the court of inquiry. He should therefore move, that there be laid before the House a copy of the proceedings at Newry, on the 18th of October last, against Mr. Trevor Corry, and of any correspondence on the subject between the Irish Government and Mr. T. Corry.

The Duke of *Wellington* had one observation to make in regard to this transaction, and which had reference to the mode of conducting these inquiries into the conduct of magistrates in Ireland. This was the second instance which had been brought under the notice of their Lordships of sending down commissions to inquire into the conduct of magistrates in cases where, if the charges had any ground at all, they ought to have been brought before the common tribunals of the country by a civil action. Such was the practice in England, and he could not see why the same course should not be pursued in Ireland. In a former debate they had another instance of this *ex parte* mode of inquiry, and now in the same way, in the case of Mr. Trevor Corry, who, it appeared was accused of improper conduct in the exercise of his functions as a magistrate, a similar course of proceeding had been adopted. Now he begged to ask why those cases were not brought before the ordinary tribunals in the regular course, as in England, instead of sending down a stipendiary magistrate—and let their Lordships remember that the greater portion of those stipendiary magistrates were mere partisans—to make a secret investigation? The fair and just plan in such cases was to proceed against magistrates against whom such charges were brought before the ordinary tribunals, and in due course of law, as in this country. That was the fair and honourable course to pursue; and he hoped to see it adopted for the future in all cases of a similar character in Ireland. It was quite right that the Lord Chancellor should, in regard to appointments to the magistracy, and in regard to the conduct of magistrates, carry on a correspondence with the lords-lieutenant of the counties; and it was highly proper that that correspondence should be held strictly private; but when a magistrate was to be tried on charges affecting his character as a magistrate, that trial ought to be open and in public, and before the common tribunals. He could not avoid making these observations as he believed they were just, and he was sure that they were in accordance with sound policy, and he trusted that in future all cases of a similar description would be disposed of before the common tribunals, as in England.

Viscount *Melbourne* was a little surprised at the observations of the noble Duke, considering the noble Duke's intimate and extensive acquaintance with public business. The course which the noble Duke condemned was one which for years had been followed in Ireland. When riots took place in that country, or when there was any apprehensions of tumult, it was the usual practice to send down those commissions to inquire on the spot into the state of affairs. Such was the general course of proceeding in Ireland, and he contended that the adoption of such a course was called for from the peculiar circumstances of that country. He saw no reason why magistrates should be exempted and not subjected to the same course of proceeding as others, and he could not conceive, that there was any good ground for objecting to the proceedings which had taken place in reference to the case under consideration. He could not conceive how the noble Duke could call such investigations *ex parte*, as he believed they were conducted in public. He understood, that everybody who wished to attend, had free access to those investigations, and that they were conducted in the same way as other preliminary investigations. At all events, the sending down of those commissions was the usual course of proceeding in Ireland, and such a mode of investigation was called for and justified by the circumstances of the country.

The Duke of *Wellington* was aware, that it was the practice to send down, not a stipendiary magistrate, but one of the law Officers of the Crown, to assist the magistrates in cases of riot, with a view to bring the rioters to trial. Here, however, a magistrate was accused of improper conduct in the discharge of the functions of his office, and it might have been proper to institute an inquiry for the purpose of putting that magistrate on his trial, but this commission was not sent down for that purpose, but, on the contrary, it was sent down with a view to the dismissal of that magistrate. What he contended was, that such a proceeding was improper, and that the magistrate ought to have been put upon his trial before the ordinary tribunals of the country.

Motion with limitations agreed to.

REGISTRATION OF ELECTORS.] Viscount *Melbourne* rose for the purpose of moving the second reading of the Registration of Electors Bill. It was a bill for the purpose of consolidating the laws relating to the registration of Parliamentary electors, and he would state to their Lordships what were its most important provisions. Their Lordships were aware, that at present the preliminary proceedings respecting registration rested with the overseers, and it had been found in many cases that there had been great negligence on the part of those overseers, and that much inconvenience resulted from their taking erroneous views in regard to the forms required to be observed. To obviate those evils the bill before their Lordships made all proceedings in regard to registration begin with the clerk of the peace, and it was hoped, that this arrangement would insure greater regularity, and obviate the inconvenience which had resulted from the present practice. The bill had originated with a Committee of the House of Commons which sat in 1835, and was framed on the principle of excluding everything from its enactments in regard to which there existed any difference of opinion. The object of the framers was, to remedy those evils which all parties acknowledged, and it had almost unanimously passed the other House of Parliament. The noble Viscount briefly described the several clauses of the bill and concluded by asking their Lordships to give a second reading to the bill.

Bill read a second time.

HOUSE OF COMMONS,

Thursday, August 2, 1838.

MINUTES.] Bills. Read a first time: — Borough District Courts; Duchies of Cornwall and Lancaster; Regulation to give effect to Treaties for the Abolition of Slavery.—Read a second time:—Affirmation; Militia Pay; Stamp Duties; Valuation of Lands (Ireland).—Read a third time:—Joint Stock Banks; Slave Trade Treaties; Transfer of Funds (War-Office); and Forms of Pleading.

Petitions presented. By Mr. PUSEY, from the Clergy of the Diocese of Winchester, and by Captain ALSAGER, from the Eastern Division of Surrey, against the Parochial Assessments Bill.—By Mr. HODGSON, from the Wesleyan Methodists of Newcastle-upon-Tyne, by Lord SANDON, Sir G. GREY, Mr. EGERTON, Mr. JAMES, and Mr. PARKER, from various places, against the encouragement of Idolatry in India.—By Lord LOWTHER, from York, for a reduction of Postage.

MUNICIPAL CORPORATIONS (IRELAND)—LORDS' AMENDMENTS.] Lord John Russell moved the Order of the Day for considering the Lords' Amendments on the Municipal Corporations (Ireland) Bill.

Amendments read a first time.

Lord *John Russell* said, that before he moved, that these amendments be read a second time, he would state generally the course which he proposed to adopt in respect to them. In proceeding to do so, he could not but express his satisfaction, that the Lords had not in this instance acted as they had done in 1836, in sending back to the House of Commons a proposal to abolish municipal corporations in Ireland, on the ground that the people of Ireland were not in a condition to enjoy the same liberties which were enjoyed with safety by the people of England and of Scotland. Such being the case, he should not now go over the grounds upon which he considered, that municipal corporations were desirable and useful institutions; nor should he quote the authorities of historians to show the advantages which had resulted from them in former times. In the present instance, the Lords had adopted the principle of allowing municipal corporations to a certain number of towns in Ireland; but at the same time they had made some alterations of a very extensive nature in the bill which had been sent up to them from that House. Therefore, when he said, that he felt satisfaction that the amendments of the Lords were not now on the principle of abolishing the corporations of Ireland, his satisfaction on the subject ended there. He must say, that the more he examined the bill, and the details of it, as it had been altered by the House of Lords, the less disposed was he to concur in the opinion that the bill, in its present state, could be accepted by this House. The alterations which had been made by the Lords in this bill were of a most extensive kind. Twenty-six of the clauses which it originally contained had been left out, and ninety-two new clauses had been added, whilst many of the other clauses framed by the House of Commons had been altered in such a manner as to give them an entirely different tendency from that with which they had been framed. It might very well be said, that the omission of so much of the original matter of the bill, and the introduction of so much new matter by the Lords would be a reason sufficient to justify a postponement of the consideration of this subject; but he must say that, besides the amount of alteration which had been made by the Lords, he could not but think that the House of Peers, in its great zeal for the object to which it was attached, and its reluctance to adopt the principle of municipal corporations for Ireland, had not paid sufficient attention to the alterations which they had made in this bill. In looking at their conduct with respect to the Irish Poor-law Bill, the amendments which they made upon it, and the time which they occupied in the discussion of them, were sufficient to show that great pains had been taken by the Lords with that subject. But, with regard to the present bill, he could not find, by any records in the votes of the House of Lords, nor by anything he had learned on the subject, that the vast addition of ninety-two new clauses in this bill, and the omission of twenty-six of its original clauses, besides the alteration of many others, had engaged their attention in discussion during the time which he should think the importance of the subject required. The bill had been more than a month away from that House; yet he doubted if, during that time, six hours in the whole had been devoted by the Lords to its consideration This he thought would be, in itself, a sufficient reason for the Commons to inform the House of Lords, that they disagreed with the clauses which the Lords had inserted, with the view to their receiving more deliberate consideration. He would now proceed to state the general nature of the alterations which had been effected in this bill by the House of Lords. In the first place he would refer to a clause not immediately belonging to the case of municipal corporations— he meant a clause respecting the right of freemen to vote for Members of Parliament. The clause agreed to by the House of Commons was framed with a view to preserve the rights of freemen on this point as they existed previously to the passing of this bill. The Irish Reform Act had preserved to all existing freemen, and to all who should hereafter become freemen, their right to vote for Members of Parliament, thus extending to the freemen of Ireland the same protection of privilege as had been conferred on the freemen of the cities and boroughs in England. It appeared, however, that a very anomalous right of voting now existed in the city of Dublin: it was a right hardly to be referred to rights by servitude, birth, or marriage, or to other right of voting, formerly existing in England, obtained by gift. It appeared, that certain freemen of Dublin claimed their right on account of birth, marriage, and servitude; yet these claims were not allowed until they had been admitted by the corporate body. It might naturally be said, that the right of voting was obtained in either of these two ways —by birth, marriage, and servitude, or by gift and purchase. But the right to which he alluded in the city of Dublin appeared to pertain to a little of both these characteristics, and did not seem, therefore, to be a right which it was intended by the Reform Act to preserve. The clause, therefore, as framed by the House of Commons, and intended to follow the principle of the Irish Reform Act, saved all rights obtained by birth, apprenticeship, and marriage. But the Lords by the introduction of the words "all rights to which they might become entitled." appeared to give a right to persons who might otherwise have not enjoyed that right. It had been objected on the other side of the House, that this bill should not be suffered to interfere in any way with the parliamentary franchise of freemen; but without pretending to set the exact legal construction upon this amendment of the Lords, he must say, as far as he could gather their Lordships meaning, that it seemed to involve some intention of carrying the rights of freemen beyond the extent of recognition contained in the Act of Reform, namely, birth, servitude, and marriage, [Mr. *Shaw*, "no."] The right hon. Gentleman said, no; and, therefore, he hoped, that the right hon. Gentleman would not object to frame the clause in words entirely consistent with the Irish Reform Act. With respect to questions more immediately affecting the affairs of municipal corporations, it appeared in the numerous clauses which the Lords had introduced, and in the amendments which they had made in the original clauses of the bill, to be their studied design to preserve to certain members of the present corporation advantages and powers which it was the object of the present bill to do away with, and transfer to other bodies. If it were desirable that the present corporations should be reformed, and other bodies instituted in their stead by virtue of election, it surely was desirable, that those powers should be taken from the ancient corporations, rather than that they should preserve their authority, and keep up, side by side, the improvement of the new system, and the abuses of the old. If this were to be done, either one of two things must happen. Either they must have two bodies acting in rivalry in the local Government of the place at the same time, or they must deprive the new bodies altogether of power, and confer it on those ancient bodies which had been already declared to be no longer worthy of exercising such authority. To refer particularly to the amendments of the Lords on this score, he would mention the clause respecting charitable trustees, wherein it was proposed by the Lords that such trusts should be preserved in the members of the present corporations, until Parliament should otherwise provide, which, owing to the difficulty which might be found in framing another Act of Parliament, would very probably be during their lives. In clause 88, also, a very singular power was preserved to certain trustees of the old corporation to cleanse, pave, and light the towns. So that in this case, likewise, the powers were to be left to the trustees under the local acts. Let him observe, with respect to those trustees generally, that in England, by the Act relating to corporations, where the corporate body were trustees, and sole trustees, not being joined with any other body, the new corporate body came into possession of the power which was formerly enjoyed. That power, as trustees, they now had; but that power, as trustees, was not to be given by the present bill in relation to Ireland. Now, there was another clause, the 97th, of a very ominous purport with respect to debts. There were certain clauses in the English bill to which he at first objected, but which, after a good deal of discussion, were agreed to in that House, exactly in the manner that they were proposed by the hon. and learned Member for Exeter (Sir W. Follett.) That hon. and learned Member took great pains with those clauses, and, according to his own views after discussion—nobody denying that the hon. and learned Member was fully competent for the task—framed them in words by which, as he conceived, all the rights of property which ought to be preserved, were preserved to the then holders of that property; but these clauses were not sufficient for those who suggested the amendments made by the peers. They had thought fit to introduce, with respect to this part of the bill, another provision, by which the town council—the present corporations in fact—had the power, if any debts were contracted before the passing of this Act, to mortgage the corporate property, for the purpose of paying those debts. Now, he begged the House to observe—bearing in mind the words of the clause, " before the passing of this Act," and recollecting the notice given during the last six months by the right hon. Gentleman opposite, that the corporations were not to expect that they should retain their power—what would be the effect of a clause by which the present corporations were enabled to part with the whole of their property on the ground of paying debts which they had incurred before this law should pass? He would ask, whether the probable consequence would not be, that these corporations would mortgage the whole of the property, and produce effectual deeds, signed before the passing of the Act, for debts incurred, which, up to the year 1838, no one had been aware of. He was speaking certainly with suspicion of these bodies. He thought he was fully entitled so to speak, not only by the votes of that House, but by the votes of the other House of Parliament; not by the votes of the present Session, but by the votes of the year 1836, by which the House of Lords first declared by address to the Crown, that they were ready to remove any abuses existing in Irish corporations, and then proposed, as the only fit and effectual remedy, to abolish these corporations altogether. He said, then, that if he expressed suspicion and distrust of the present members of the corporate bodies in Ireland, that was no individual fancy of his own—it was not even the sound and mature opinion of a majority of that House only, but the decided, deliberate, and mature opinion of Parliament. Amongst other clauses, there were clauses with respect to boroughs in schedule B (to which he should have to refer hereafter) that deprived these towns of corporations. By the amendments of the Lords, it was proposed, that in all the boroughs contained in schedule B, the offices of town-clerk, and of some others, were to be continued in the possession of the present holders. The 180th clause recited,

> "That every person who shall have been elected or appointed by any body corporate named in the said schedule (B) to this Act annexed, which shall be dissolved by virtue of this Act, or by any member or members thereof, in his or their corporate capacity, to be a clerk of a market, or a weighmaster of all goods, wares, and merchandises, or a weighmaster of butter, or taster of butter, or assay-

master and shall not be entitled to such office as a member of such body corporate in his corporate capacity, shall continue to hold such offices, and to execute all the duties heretofore belonging thereto, as if this Act had not passed. Provided always, that if such office shall be filled up upon any resignation or removal made after the passing of this Act, in such case the person appointed to such office may be removed at the pleasure of the Lord-lieutenant: and any person so removed, shall not be entitled to compensation under the provisions of this Act."

Then the 181st went on to say,

> "That every person who shall be a town-clerk, bailiff, treasurer, or chamberlain, or other ministerial or executive officer of any body corporate named in the said schedule (B) to this Act annexed, which shall be dissolved by virtue of this Act, and who shall be in such office at the time of such dissolution, shall continue to execute all the duties heretofore belonging to his office, so far as the same are not inconsistent with the provisions of this Act, in the same manner as he would have done if this Act had not passed, until he shall be removed from his office by the commissioners to be appointed in such borough by virtue of this Act, or, where there shall be no such commissioners, by the Lord-lieutenant."

Now, it appeared to him, that the object of these clauses was to preserve persons in certain offices in corporations which should be dissolved; and he could feel little doubt that the persons being appointed to these offices, in fact by abuse, that these abuses would be preserved under this Act. But there was a very material question relating to the clause which he had just mentioned with respect to the old corporations and some other towns contained in the same schedule. There was a particular provision made for the watching of these towns, the clause inserted by the Commons being left out, and the commissioners of local acts being authorised to superintend this department instead of the town-council appointed by this Act. So that care was taken that the trustees appointed to execute the provisions of local acts should be the servants of local bodies, and not of the town-council appointed by this Act. Care was taken, that the watching of the towns should not be under the direction of persons appointed by this Act, and there were various clauses relating to property which would take away from the town-council the power of exercising those rights with regard to property which were exercised by the town-councils of the reformed corporations of this country. He could conceive, that those who framed those clauses, and who introduced them, as he had said, without giving the majority or minority of that House an opportunity of sufficiently considering them, had for their object to preserve as much power as possible in the present corporations, and to give as little power and as few functions as possible to the new corporations. That he could conceive to be the narrow-minded view—to be, perhaps, the interested view—to be, perhaps, the factious view, of those who were concerned in the old exclusive corporations of Ireland. He could conceive that they would be glad to impose on any one who consulted them provisions of this nature; but it was for the House of Commons—for Parliament in general—to consider, whether the peace and welfare of those towns, whether the general good and prosperity of Ireland, were likely to be consulted by these regulations. Even according to the view of the Gentlemen opposite, these amendments must be reprobated as at once making these municipal corporations places of political agitation and perpetual debate. The Gentlemen opposite had described that more than once as unsafe and unwise. But he submitted that the way to prevent that danger was to give the corporations local objects on which to employ themselves, to give the persons interested in the welfare of the towns the management of local concerns affecting the towns, and to make them busy themselves in those affairs which properly belonged to the welfare and prosperity of their native place or their chosen place of residence. He submitted to them likewise that with regard to the choice that might be made by the electors, the very best security they could take for having a proper discrimination as to the merits of candidates exercised would be that those who were to be members of the town-council should have essential functions to perform, because then the elector could say, "I care not whether this gentleman is a Protestant clergyman or not; I care not whether this is a Roman Catholic proprietor or not; or I care not whether this is a Presbyterian merchant or not; but I am fully convinced of his sense, integrity, and capacity for business, and I will choose him to represent me in the town-council." Such would be the effect of giving them real functions to perform; but if, on the contrary, the bill deprived them of proper municipal powers, and yet created corporations, why, then, they did give them a reason and an incitement for becoming political bodies; and they made them the representatives of political opinions, and nothing but political opinions. And, if that danger should follow from the course which they now took, it was a danger of their own seeking, and which they had themselves voluntarily incurred. With respect to other matters, the bill had been likewise very much altered by the House of Lords; but as to many of these alterations, he was not prepared to make the objections which he thought might well be made to them, but which did not seem to him to be of so strong a nature as to justify him in attempting to enforce them, contrary to the opinion of the other House of Parliament. One great change which the Peers had made—and a very important one, no doubt—was confining the municipal functions to not more than twelve principal towns, and leaving the other towns to be provided for in a different manner; that was to say, to give them for a certain time the power of applying for municipal corporations, and if they should not choose to do so that they should hereafter be governed in a manner to be pointed out by Parliament. He did not say, that he concurred in this proceeding; but as to that proposal for confining the municipal corporations to a small number of towns, and making other provision for the rest, especially the small towns, he was not then prepared to make any objection. There was likewise a very important series of clauses and provisions introduced into the schedule for regulating the boundaries of towns. Now, the chief objection which he had to this change was, that they had no other opportunity of considering the subject to which it referred than in the shape of an amendment to the present bill, whereas he thought that it ought to form, as proposed in that House, the ground work of another bill, which might go through its separate stages in that House. He should next go to the manner in which it was proposed, that the new corporations to schedule A should be preserved, and the manner in which the elections should be made. It was proposed, with respect to one point, relating to some of those boroughs, that the sheriff should not be nominated in the manner proposed by the House of Commons; but by the Crown, in the manner usually observed in the counties in Ireland. He knew not, that the sheriffs in Ireland were nominated by her Majesty, and he did not see, what exactly would be the operation of this clause in point of law. With respect to another subject to which he should now come,—namely, the franchise of the electors, a very great alteration had been made. In the first place, the 5*l.* rating franchise was changed to a 10*l.* rating, a question which had been much disputed in that House, and on which he should again touch, in stating what he had to propose; and in the second place, although a six months' residence was preserved in the bill, as introduced by the right hon. Gentleman opposite, yet twelve months occupancy, and rating seemed to be required. By the latter part of clause 13, twelve months were introduced, whereas, according to the bill as it went from the Commons, six months were all that was required. He could not but refer to this particular alteration in connection with a bill which had been introduced into that House, and which bore on the back the names of Sergeant Jackson, Sir W. Follett, and Mr. E. Tennent, and which affected the registration of voters in Ireland. He thought, when the House considered what had been introduced into that bill, they would see the obvious intention of those who framed the present alteration, which could hardly be conceived to proceed from those who protested so loudly against mixing in this act, questions of Parliamentary and municipal franchise. After stating in the preamble, that a residence of six calendar months would be sufficient to the qualification of an elector, the bill, which had been introduced by the hon. and learned Gentleman to whom he had referred, enacted in one of its clauses, that a residence of twelve calendar months would be required. Now, it was quite clear what the intention here was. There was an alteration introduced in the Municipal Bill for changing the time of occupation from six months to twelve; there was a similar alteration introduced into the bill, to which he had referred, and which had been brought forward by members of the same party as that which had changed the present bill. The intention was manifest—to restrict the right of voting, by making a longer residence necessary than was now required by the law. This certainly appeared to him, to accord with the general notions of those who had always evinced so extreme a willingness to yield to provisions by which the franchise might be restricted, and so strong and decided an opposition to those enactments, by which it might be in the smallest degree enlarged. Having now stated the general alterations which had been made in the bill, which, as it would be seen, were very large in amount, very extensive in nature, and very important in principle, he would state generally, before the House went to the consideration of particular clauses, the course he proposed to follow with regard to all the various amendments. In the first place, as regarded all those amendments which went to maintain in the present corporate bodies in Ireland certain powers, trusts, and authorities not maintained in the English Corporation Act, as regarded those clauses, he should propose to disagree with the Lords on those points altogether. While they were proposing to reform the Corporations in Ireland, it was, he thought, impossible to admit, that they ought to give large and extensive powers to the very persons whom they proposed to supersede. He thought, that such powers vested in such hands, would, if preserved, be more dangerous, and more liable to abuse than they were at the present moment. They stood at present, at all events, in a conspicuous position; they were members of the body corporate, they assumed the government of the town, they were known as the corporate body, and whatever they did, was subject to the criticism to which all public bodies were liable. But "if it were pretended to abolish these powers, and yet, at the same time, continue to these individuals under other names, by crafty provisions, by indiscreet regulations, the very powers which they had hitherto abused, they would for the future, exercise those powers more, not less, mischievously; they would exercise them with equal force, but with greater impunity.". He should propose, therefore, whenever they came to clauses of that kind, that the House of Commons should dissent from them. With regard to another class of amendments, those which gave corporations only to a small number of towns, and placed those of an inferior amount of population in a different schedule, he certainly should not propose, that the House of Commons should disagree from the Lords upon that part of the bill. He was prepared to admit, that the cities and towns contained in schedule A should alone be admitted to corporate rights by virtue of the bill, and, that the incorporation of the other towns should be made dependent upon their own application. It appeared to him, however, that the very great number of clauses—some forty, at least—by which it was provided, that in case of corporations not being applied for or granted to these towns, a commissioner should have the power there granted—it appeared to him, that these clauses introduced only a very cumbrous and needless machinery, and that it would be better at once to enact, that if within a certain limited time—say twelve months — they should not apply for corporations, then the provisions of 9th George 4th should be applied generally to those towns. There were provisions in the bill making a distinction between those who had 100*l.* a-year personal property and those who had not, into which he did not think it necessary at that moment to enter, but which might be discussed when they came to consider the clauses in detail. With respect to the clauses introducing the provisions of the boundary bill into the present measure, as those boundaries were not discussed when the bill was before the House, he thought it necessary to say, that there certainly was some convenience in passing in the same measure the requisite regulations with respect to boundaries; but as the Commons had not yet had the opportunity of discussing the proposed enactments which related to that part of the question, he might state, that he thought it would be necessary to introduce some provision giving a remedy in certain cases. The provision which he should propose to introduce would be this; that application should be made to the Lord-lieutenant in council, and that the Lord-lieutenant in council should have the power of including certain suburbs not now comprised within the boundaries, and of making a more equal division into wards. With respect to the clause relating to sheriffs, he should propose to restore that clause to the same shape as that in which it was sent up to the other House, thinking, that that clause as it originally stood would operate very beneficially, and that no reasonable objection could be made to it. He had now, he thought, stated all the principal points with respect both to the old corporations and the new, with the exception of that which related to the franchise. And, in approaching this part of the subject, he was happy to have the protection and support of what had been said in former discussions in that House, not of those who generally agreed with him in political opinions, but of those who most frequently coincided with the views of those who sat opposite. He was glad of this, because he was aware, that if he had stated, that he thought a lower franchise than a 10*l.* rating ought to be admitted, it might be said, that it was entirely owing to his desire to introduce a Roman Catholic democracy in Ireland, to whom he might be disposed to be more favourable than the Gentlemen opposite. But he was happy to be able to say, that if he should assert, that a franchise raised above 10*l.* (as he thought the present franchise would be) would be a higher franchise in Ireland than had been admitted either into England or Scotland, which was unadviseable, he should have the authority of the hon. Member for Wakefield (Mr. Lascelles) for so saying; that if he should say, that the qualification in Ireland should be smaller in amount than it was in England, he should have the authority of the noble Lord the Member for Cornwall for making the assertion; and, that even if he should go further, and say, that he was not disposed to drive a hard bargain with the Irish people, although it might be right at the same time to support the House of Peers and the Established Church, he was happy to know, that even if he were to go that length he should be supported by the opinion of the hon. Member for Guildford, who usually voted with the opposite side of the House. But independent of the support of those three Gentlemen, he remembered, that another hon. Gentleman, well acquainted with this subject, the hon. Member for Somersetshire, stated in one of the discussions upon the bill, that he found from inquiries he had made, that in the West of England, where there was a poor population, the rating of tenements ranged from 15 to 22 per cent. under the real value. That was to say, that the real value being at a certain amount, the rating was 15 or 22 per cent. under that amount. This was important, because it showed, that there were many persons who had no political predilections in accordance with those of the Government, who did not agree in the proposition made by the right hon. Gentleman (Sir R. Peel) that the rating should be upon the real *bonâ fide* value. He did not object to taking in the qualification of rating; but when that qualification was to be insisted upon, it became necessary to inquire how far that qualification of rating, as applied to value, was the exact test which they ought to adopt when they were giving a qualification. The original purpose of the rating was for a totally different object. The original purpose of the rating was to obtain a fair test by which a person might be made to pay a certain amount to the State in proportion to the value of his property. In so doing the natural process was, to say "Let us compare this property with other properties — let us see what may be the value of this property to the owner, and let us, after ascertaining the value, put it on an equality with other property." In the Irish Poor-law act, Parliament had proceeded upon that principle, and had said very properly, "Take away that which is for repairs, take away that which is for insurance, take away that which is for taxes, take away that which is for rates and for other necessary expenses, and you will then get what is the real yearly value of the property; and it is by this means alone that you can place persons resident in towns upon the same footing as those who occupy land in the country." That was an exceedingly right and proper mode of proceeding as related to the imposition of a rate; but what was it that the Legislature wished to obtain when it was about to fix a qualification? What it was then wished to obtain was merely, "what are the expenses incident to the house which the occupier of the house is obliged to pay?" If one man paid 12*l.* a-year for his house, and the landlord to whom he paid it should agree with him to be at all the necessary expenses, to pay all taxes and to furnish all repairs, that man was, in fact, paying no more than a man who undertook to pay only 6*l.* a-year for his house, but who, by the expense of repairs, the amount of rates, and other necessary charges, was obliged to pay a further sum of 6*l.* a-year to enable him to occupy his house. He thought, therefore, that, taken by itself, the qualification of rating was altogether a bad test of the value of a house. It did not tell what a man was obliged to pay; it did not tell what was the amount of his necessary expenses; it did not tell at all what his general average of living was; it merely told that in comparison with other property his particular piece of property was rated at a certain amount. The Lords perceived that there was that error in the qualification proposed by the right hon. Baronet (Sir R. Peel), and they had, therefore, rejected it, as well as the qualification proposed by the Government. The Lords said, "Let it be the rated value, but let us add to that rated value any amount paid for repairs or insurance by the landlord." That was to say, that they had added to the rated amount of value, whatever it might be, whether 7*l.*, 8*l.*, or 9*l.*, for they did not adhere to the one fixed sum of 10*l.*, but admitted houses of a lower rating, provided the value of 10*l.* were made up in the manner specified—they added to the rated amount of value some other sum for repairs and insurance. But he submitted that, even if he did not persist in the original proposition of the House of Commons, it would not be wise to adopt that of the House of Lords. It appeared to him, that in avoiding one error they had palpably fallen into another—that of making the franchise uncertain. This question of how much was to be paid for repairs, and how much was the proper sum to allow for insurance, might be a question discussed in every town, in every street, in every separate house; and if the Legislature had reason to be afraid of exaggerated value being placed upon houses, it might rest assured that those exaggerations might be made under the name of repairs and insurance more readily than under the name of value. He, therefore, should propose something different from this—something different from the amendment introduced by the Lords. "In the first place," continued the noble Lord, "I propose, in conformity with what I have stated, that you shall take a sum, which shall be in lieu not only of repairs and insurance, but in lieu also of all rates and taxes and charges of that description to which the house may be liable. But if I were to take the provisions of the Poor-law Bill—if I were to say, that it should be a sum which, together with repairs, rates, taxes, and other public charges, should make up 10*l.*—I should then fall into the very uncertainty which I condemn in the clause as proposed by the Lords. Wishing to avoid that error, and wishing also to find some franchise less objectionable than that which now stands in the bill, I shall propose to take the rated value, and I will add, in all cases in lieu of the charges for repairs, rates, taxes, &c., one-fourth of the amount of rated value, in order to make up the sum of 10*l.* It is quite obvious, that in this case if you choose 10*l.* value, with 8*l.* rating, you would add 2*l.*, being one-fourth, and the 8*l.* rating with the sum so added would give the qualification to vote in municipal affairs. It appears to me, that by such a provision I should at least avoid the unfairness of the two other propositions. I avoid the proposition of the right hon. Baronet, which I think unfair, and which has been declared to be unfair by five Members of the House fully qualified to pronounce an opinion upon the subject, and who generally agree with the right hon. Baronet in his opinions; and I avoid also the uncertainty of the qualification proposed by the Lords, by saying, that the sum to be added to the rated value shall always be of a fixed amount. At the same time I think it is fair to say, that if it should be objected to this proposition as imposing too low a franchise, if the Lords or the Gentlemen opposite should still insist on making a higher qualification in Ireland than any that exists in England or Scotland, it will then be for the Members who represent Irish towns to say, "Give us either the English or the Scotch bill exactly as it is framed, and do not let us have any other provision for Ireland than that which you have yourselves thought fit to give to England and Scotland." But I have made this proposition in the hope that seeing how much difference of opinion has arisen upon this subject—to how great a length, and, indeed, for how many years, the discussions upon it have been continued—those who have hitherto been opposed to every proposition may at length open the way for a settlement of the question. I will not now enter further into the bill; but I cannot conceive, for my own part, that those who have given way upon what seemed the principal point in this measure should not be willing to allow with the great majority, not only of the Irish representatives but of the Irish people, that which would be only just and fair towards Ireland. It was open to you (the Opposition) to say, that you consider the Irish as incapable of exercising municipal power. I disagree entirely from that proposition, but you do not hold to it yourselves. It was open to you to say, that the Established Church was in such a position that you were afraid to use any measure of this description until it was made more secure. But we have withdrawn any ground of opposition that you might have had upon that subject; and all that you have yourselves demanded to make the property of the Church more secure has been already conceded to you by this House. That being the case, I must say, that to hold out with respect to a municipal bill, and, in order to preserve a little power or a little salary to a town-clerk, to dribble out the franchise in the Irish towns by little bits, is a course of proceeding at once illiberal and unwise. It is neither showing the confidence nor the generosity which ought to be shown to the people of Ireland, nor is it adopting a course of policy upon which a man of wise forecast could hope to build the future welfare of the empire. I hope, therefore, that I may succeed in the amendment I mean to propose, and that the House of Lords, when they shall come to consider the matter again, may see, that in the alterations made by them, evils and mischiefs had been introduced of which they were not aware, and that they will consent nobly and generously to establish the municipal franchise in Ireland upon the same principle as it is already established in England and Scotland."

Sir *Robert Peel* would have been perfectly content to discuss the merits of each of the amendments proposed by the Lords upon the individual clauses which contained them; and he could not help thinking, that that course would have been infinitely better than the one taken by the noble Lord. The noble Lord, however, had adopted a line of proceeding which precluded him from taking the course which his own sense of expediency and justice would have dictated, and had enlarged in undue, unjustifiable, and, he thought, unwise sarcasms upon the authors of those amendments—sarcasms which, however they might have been intended, were calculated, if possible, to throw obstructions in the way of the settlement of this important question. The noble Lord began his speech by a sarcasm upon the House of Lords for having changed their opinion with respect to Irish corporations. The noble Lord began by stating, that the Lords had heretofore withheld corporations from Ireland because the people of Ireland were not fit to have them. The noble Lord put the ground of withholding corporations not upon the true ground, that the Lords, seeing the state of society in Ireland—seeing the conflicts of party there—did entertain an opinion that, while they were willing to relinquish the old corporations, they were not, upon the whole, willing to establish new ones. He thought, therefore, that the noble Lord, under any circumstances, should have spared his sarcasms upon those who had shown a desire to conciliate the national feeling of Ireland. When he recollected the changes of opinion which had taken place with respect to Irish measures—when he recollected the opinions formerly given with respect to the poor-laws by some gentlemen who were now the most strenuous opposers of them, and who thought the establishment of poor-laws in Ireland a sufficient justification for the repeal of the union—when he mentioned the discussions which had taken place with respect to the Irish Church, and the course—he thought the wise course—which the noble Lord had taken in receding from the opinions he had formerly maintained upon that subject—with all these things fresh in his recollection, he thought, that the noble Lord was the very last person from whom a sarcasm might have been expected upon those who, for the sake of peace, had been willing to make a sacrifice with respect to Ireland. He denied, that the noble Lord had given a just description of the bill which the Lords had sent down, and the noble Lord had misrepresented, not only the general purport of the bill, but almost every clause that the Lords had amended or added. In the first place, the noble Lord said, "The Lords have no longer persisted in their original opposition to the principle of corporations, but have sent down a bill allowing, that in some towns there may be corporations." He asked, whether those words gave a just description of the bill which the Lords had sent down? So far from "allowing" corporations to certain towns, the purport and effect of the bill was this, that in eleven of the principal towns of Ireland there should be no discretion whatever. It made it obligatory upon those eleven towns to have corporations. Did the noble Lord's remark hold good with respect to other towns? Did the "allowance" of the Lords extend only to certain particular towns? The bill as amended by the Lords allowed every town in Ireland which had 3,000 inhabitants, to apply for a charter of incorporation; and if in any of them, whether now possessed of corporate authority, or not, a majority of the 10*l.* householders should think it for the advantage of the town either that the old corporation should be continued, or that a new corporation should be constituted, in that case there was full authority given to the chief governor of Ireland to accede to the wishes of the inhabitants, and to continue the old corporation, or constitute a new one, founding the corporation, in either case, upon the self-same principles as those which were applicable to the eleven towns peremptorily incorporated by the bill. The noble Lord then proceeded to comment upon the changes which had been made in the bill since it was sent up to the Lords from the Commons, and he said, "No less than ninety-two new clauses have been inserted in the bill which is now sent down to us." In reply to that he must remark, that the Lords had incorporated in the present bill the whole of the Boundary Bill of the Government. And what were the authorities by which the boundaries, as adopted by the Lords, were defined? They were the commissioners appointed by the noble Lord himself. The noble Lord sent forth his commissioners, gave them their instructions, and they established these boundaries; and the Lords, content with the definitions of boundary contained in the report of the commissioners, consented to adopt them, but thought it would be better that they should be embodied in the bill relating to corporations rather than be made the subject of a separate measure. The noble Lord made that an objection; but, if he mistook not, the noble Lord at the head of the Government distinctly and explicitly declared, that he thought this incorporation of the Boundary Bill with the present measure an improvement. This, therefore, accounted for the addition to the numbsr of clauses. The House had, in fact, before it two bills instead of one; and he could not but think it expedient, when new corporations were established, that the boundaries of them should be defined in the measure which gave them their existence. In other respects the Lords had only introduced such clauses as were necessary to give effect to the general outline which some weeks since he (Sir R. Peel) had sketched as the basis upon which he thought it possible that the party with which he was connected might consent to the establishment of corporations in Ireland; and he must say, nowithstanding the altered tone which the noble Lord for some purpose or other assumed upon the present occasion, that when he first stated that scheme the noble Lord did not make the same objections to it; nor were those objections made by any one at that time. Then, perhaps, was felt, the extent of the sacrifice which Gentlemen on his side of the House were making—the number of conflicting opinions which he had to conciliate—the prejudices and feelings which he had to overcome; and then it was the impression of the noble Lord, and the general impression also of the ministerial side of the House that he had gone further than could have been expected for the purpose of coming to a settlement of the question. At any rate, so strong a difference of opinion was not then expressed by any Member of the Government. But the noble Lord's objections and complaints did not end with the introduction of the clauses which were absolutely necessary to carry out the scheme which he had opened. The noble Lord said, that considerable time was taken by the Lords in discussing the Poor-law Bill, but that no sufficient time was taken by them in discussing the provisions of the Municipal Corporation Bill. Whose fault was that? Whose fault was it that the Irish Municipal Corporation Bill was sent up to the Lords on the 26th of June? By whom was it that the day for the coronation of her Majesty was fixed for the 28th of June, being the very time when it must have been known beforehand that the attention of Parliament would be indispensably required to all the most pressing and all the most important business of the Session? Who did not know, with the invitations which had been given to every nation in Europe to send representatives to do honour to the Sovereign of England, and with the natural desire which men of all classes would naturally feel to do honour to those who came to do honour to the Queen—who did not know that, at such a time, it would be difficult or indeed impossible to direct the undivided attention of Parliament to the business of the Session? Therefore, those who fixed the coronation for the 28th of June, and sent up the Irish Corporation Bill to the House of Lords on the 26th of June, were the parties who were responsible if this bill had not received the mature and deliberate consideration which the noble Lord deemed necessary. But whose fault was it that the amendments were not more fully discussed in the House of Lords? Those who proposed amendments to a bill, naturally expected that the objections to those amendments would come from the persons who dissented from them. It was not usual for those who proposed and supported an amendment to object to it also, for the sake of raising a discussion. Certain noble Lords proposed amendments to give effect to a scheme to the general outline and principle of which they hoped there would be no insuperable objection. Why did not the noble Lord's colleagues in the House of Lords consider those amendments more fully? If they were defective in point of legal detail, where was the Lord Chancellor and the other high legal authorities? Why did they not consider the propositions which were made? Was not public notice given, that in Committee new clauses would be moved? Whose duty was it, then, to be ready to discuss every portion of the measure, to defend that which they believed to be good, and to resist to the utmost every innovation or every addition which they believed to be bad? If blame were to attach any where for not giving sufficient attention to the bill, upon whose head should it fall? But this was not all. If the objections to the amendments in the measure were really so strong as the noble Lord had stated them to be, why did the head of the Government move the third reading of the bill in the other House? Why did not the noble Premier refuse to move the third reading of the bill until the clauses were amended, and the measure moulded into the form in which he wished to see it? Upon these two points therefore—first, the number of additional clauses incorporated with the bill; and secondly, the want of sufficient attention to the details of the measure—upon each of those points the sarcasms of the noble Lord appeared to him to be perfectly unjustifiable. He now came to speak of a class of clauses in respect to which the noble Lord had founded a grave charge against the House of Lords. The noble Lord said, " I will now enumerate a long list of clauses, in the insertion of which I will endeavour to show you a lurking desire on the part of the Lords to vitiate the merits of the bill, by retaining for the present corporations all the powers which it was possible for them to maintain, and to throw disrespect and censure upon the new corporations by withholding from them the functions which properly belonged to corporate bodies." The noble Lord justly said, that he viewed this part of the bill with great suspicion. The comments which the noble Lord made upon these clauses convinced him that his mind must indeed be tainted with suspicion! He did not know who was the *Iago* who had been pouring this poison into the noble Lord's ear; but he certainly had never seen a gentleman in public life labouring more strongly than the noble Lord did under the pains and pangs of jealousy. To show the degree of that jealousy it would only be necessary for him to mention the construction which the noble Lord had put upon several of these clauses; he would take the fourth clause of the amended bill. By that clause the noble Lord charged the House of Lords with the intention of retaining to the freemen of certain towns in Ireland, and particularly to the freemen of Dublin, certain privileges beyond those to which they were entitled under the bill for the reform of the representation. Now it must be observed, that a great part of the objections which the noble Lord had taken to the amendments of the House of Lords, applied with equal force to his own bill; but he had been so blinded by suspicion and jealousy, that in attempting to put an injurious construction upon the amendments of the Lords, he had involuntarily wounded himself, and exposed his own course of policy to exactly the same construction. He disclaimed altogether, on the part of the Lords, any intention whatever to reserve to the freemen of Dublin, or of any other city or town of Ireland, any privilege which they did not at present possess. It was admitted, that the rights of the freemen ought to be preserved, and, that they should not be made dependent upon the fact of whether there was a corporation or not. It, therefore, became absolutely necessary, according to the scheme of this bill, to provide, that in the towns incorporated, the rights of the freemen should be preserved. The noble Lord did not state the words of the clause upon which he relied as showing the animus of the

Lords; and he (Sir R. Peel), on reading the clause carefully over, confessed he was at a loss to discover any words which substantially differed from those employed by the noble Lord himself.

Lord *J. Russell:* The words upon which I founded my remark were these—"or might hereafter have been entitled."

Sir *R. Peel* begged the noble Lord to take care; for the words to which he objected, and upon which he now declared his remark had been founded, were in fact his own. [Lord *J. Russell:* No, no!] These were the words of the clause as proposed by the noble Lord, and as they stood when the bill was sent up to the House of Lords:—

> "And be it enacted, that any person who now is or hereafter may be an inhabitant of any borough, and also any person who has been admitted, or who might hereafter have been admitted a freeman or burgess of any borough, if this act had not been passed, shall have and enjoy and be entitled to acquire and enjoy the same share and benefit of the lands, &c., of which any person in any body corporate may be seized or possessed for any charitable uses or trust, as fully and effectually as he or she, by any charter, statute, &c., in force at the passing of this act, might or could have enjoyed in case this act had not been passed."

He was only showing the injustice of the noble Lord's observation with respect to covert and secret intentions on the part of the House of Lords. If there were any equivocal words introduced into the amendments of the House of Lords, he had no hesitation in disclaiming any intention of procuring for any freemen any privileges to which they were not entitled under the Reform Act if this bill should not be passed. He therefore did not despair of coming to an amicable arrangement with respect to the 4th Clause. He presumed it was impossible for the noble Lord to reinstate his own clause after having discarded it with contempt. Then with respect to the powers reserved to the old corporations. The noble Lord had said, that the old corporators were maintained in possession of important municipal functions. He did not find in the bill any municipal functions to which the old corporators would hereafter be entitled. He found a distinction made between charity trusts and municipal trusts; and there was a different provision made with respect to trustees of charities in case they should be corporators than that which was made with respect to ordinary municipal corporators. But here again the noble Lord, in his own bill, made the same distinction, for he did not propose to devolve the new charity trusteeships upon the new corporations. He established a distinction between municipal functions and charity trusts, and in his own bill the noble Lord provided in the case of a trust of a charitable nature, that the existing trustees, being old corporators, should be maintained for a certain time, at the expiration of which the Lord Chancellor should proceed to appoint new trustees. He admitted there was a difference between the amendment introduced by the Lords and the provision of the noble Lord. The House of Lords thought it highly important, that the whole question of charity trusts should be reserved for future consideration, and they therefore gave to the Lord Chancellor the power of filling up all vacancies that might occur; but they had not given him the power which the noble Lord contended he should have, namely, the power of absolutely appointing the whole of the trustees. He, for one, would readily consent to any arrangement which could prevent charity trusts being perverted to political purposes. But it was his duty to say—and he did not shrink from saying it—that Parliament having made a provision with respect to England, that the Lord Chancellor should have the power of appointment, he was not satisfied with that arrangement; that he did believe, that political feelings had, in some cases, influenced the appointment of trustees; and that, on that account he dissented from the proposal, that on a certain day the Lord Chancellor of Ireland—he being himself, of course, a partisan, and immediately connected with the Government—should have the power of appointment. Another arrangement would be more satisfactory to him, which should provide a greater security against the appointment of trustees being perverted to political purposes. He knew it had been said, that under the pretence of retaining the power over charity trusts to the old corporators for a certain time, they had gone much further, and had included trusts which were not of a charitable nature. He could only disclaim any intention of so doing. The noble Lord had referred to Clause 75. He was perfectly willing to admit that that clause as it stood at present was open to question. But the noble Lord did not permit them, in the House of Commons, to come fairly to the discussion of that clause; but fastened on certain words in order to create suspicion against the House of Lords. The beginning of the clause ran thus:—"That in every borough named in the said schedule (A) in which the body corporate solely, or together with any other body or bodies corporate, or person or persons is or are trustee or trustees for any purposes other than charitable uses or trusts." These words certainly appeared to imply, that the old corporators were reserved as trustees for all other trusts beside charity trusts. But he could only state that immediately the bill had passed the House of Lords the error was discovered; the clause having been copied from the bill of 1836. He held in his hand a copy of the bill given to him some days ago, having this note written in the margin opposite the first and second lines in page 50:—"These words should have been omitted. The clause was copied from the bill of 1836." If, therefore, the noble Lord had not stated the objection, he (Sir Robert Peel) was prepared with an amendment to clear up any doubt that might have existed on that point. The noble Lord had stated that the word "charity" bore a technical sense, and that under that word they would in point of fact include a public institution in Dublin which was called "The Pipe-water." He could only say, that there was no such "covert design" on the part of the House of Lords, and that those "crafty men" never considered that under the word "charity" they were confining the Pipe-water trust to the old corporation. If the word "charity" was a term which legally included other kinds of trusts than those really contemplated by the House of Lords when passing this clause, he would consent to any amendment which would exclude any institution which partook of the nature of a municipal rather than a charitable trust. The next point the noble Lord adverted to was this:—he said, that a great alteration had been made by the House of Lords in that clause which defined the purposes to which the property of the corporations should be applied. "In England," said the noble Lord, "you had confidence in the new corporations, and gave them the full control of the funds of the corporations; but in Ireland you adopt a different principle and limit and define the purposes to which the surplus revenue shall be applied." But what did the noble Lord do? He provided that in all boroughs the property should be held in trust for the payment of all municipal expenses which should be necessarily incurred for carrying into effect this Act, and that in case the borough fund should be more than sufficient for those purposes—of course the House would suppose that the noble Lord then provided that the new corporations (taking a comprehensive view of the public interests of the borough) should have the entire and exclusive control over the funds; but so far from making any such arrangement, the noble Lord expressly provided that in every case, except in the city of Dublin, the surplus property of the corporation should not be applied towards such purposes as the corporation should deem for the benefit of the town; but that in the first instance, it should be applied towards paving, cleansing, and lighting the streets of the said borough, and towards supplying the inhabitants with water. These were the suggestions of the noble Lord himself, thus prescribing the objects to which the surplus fund should be applied. Now, the House of Lords retained those words of the noble Lord, and the only alteration they had made was this, that the principle which the noble Lord thought good for every town and city in Ireland except Dublin, should be applied also to the city of Dublin itself; and that instead of the surplus funds of the corporation of Dublin being applied to political purposes they should be applied to municipal purposes. That was the only difference between them and the noble Lord, and that the only ground on which the noble Lord charged the House of Lords with the crafty and covert design of spoiling this bill. When he on a former occasion called upon the House to support him in requiring the surplus funds to be applied to public purposes, all he could say was that the principle at that time met with the unanimous assent of the House. He now came to clause 97, and in commenting on that clause the noble Lord lost all self possession. "Mark (said the noble Lord), the subtlety of the House of Lords! Both the House of Lords and the House of Commons have condemned the existing corporations, both have joined in enactments which imply suspicion of those corporations by tying them up in the disposal of their property to certain purposes; but still the Lords have introduced into this bill a clause which shall enable them during the interval that must elapse before the old corporations can be extinguished, to deal absolutely with this property and apply it to other than municipal purposes." He never was more surprised than when he heard the noble Lord make this remark. For what was the fact? The House of Lords intended this power to apply only to the new corporations, and not to the old. They never meant to give the old corporations any power over this property which they did not possess by the bill before the amendment was introduced. If, therefore, they had given it in words, he for one would consent to alter it. Finding among the amendments in the English Municipal Corporation Act one to this effect, that they might provide new securities for old debts, the House of Lords thought it desirable to apply that principle to the new corporations to be established. Whereas, in the new corporations in England, it was made lawful for the council to execute any deed in the name of the body corporate for securing the repayment of any debt contracted by the said body corporate before the passing of the act; therefore it was thought that a similar power should be given to the new corporations in Ireland; and the noble Lord had construed this into an intention to enable the old corporate body to part with the property. That he and those with whom he acted, should ever be parties to introduce a clause, or even support a clause, which should enable the corporations to do that which they all had consented, should not be done, was an imputation which he did not think it worth while to reply to. The next point to which the noble Lord adverted, was the 108th clause, and so imperfectly had the noble Lord read the clause, that he stated, the Lords had thereby given the town-clerks of the existing boroughs, a life-interest in their offices. They did no such thing. They did not retain any officer, where there would be a new corporation; all they did with respect to them was, as in the English act, to provide compensation. They gave the new corporations the power of appointing new officers. It was not right, therefore, to say, that the Lords had fastened the old officers on the new corporations. But they made this provision, that whereas there might be places in which the old corporations might be dissolved without any new corporations being formed, and in which certain duties might be required to be performed, in that case the House of Lords provided, that those duties should be continued to be performed by the present officers. Did that course deserve the character given to it by the noble Lord? The noble Lord next referred to the police. He certainly understood, that the proposal which he himself made was acquiesced in, and particularly by the hon. and learned Member for Dublin,—namely, that as there was a constabulary force under the Lord-lieutenant of Ireland, and as there was no distinction made between a night and day force, there was no reason for constituting a separate constabulary force for the night in the corporate towns under the name of police. The House of Lords had, therefore, merely omitted the clause which enabled the town-councils to appoint a separate force. But said the noble Lord, "You are depriving the municipal corporations of all their legitimate functions by preventing them from having a police." What was the noble Lord himself doing in Dublin. He was transferring the whole police of that city from the corporation to the Lord-lieutenant, and he was going to pursue precisely the same course in the city of London. The noble Lord contended, that it was desirable, that the police force, which was intrusted with the preservation of the lives and property of the inhabitants of the country, should be under one controlling power, not liable to be disturbed by party and political prejudices, and he was accordingly about to propose, that the police of the city of London should be transferred from the corporation to the general Government of the country. Then, again, he found fault with the House of Lords for including the Boundary Bill in this municipal bill. But the very instructions which the noble Lord gave to the boundary Commissioners had been incorporated by the Lords, as the rule which should govern any future arrangement. How was it possible to go further with the Government on that head, he could not imagine. The House of Lords adopted the principle of the noble Lord himself, and yet his charge was, that like factious and crafty men, they had sought to deprive the bill of all recommendation. Next, with respect to the alteration relating to the appointment of sheriffs. The noble Lord also objected to this. He could only say, that he adhered to his own opinion, and thought it infinitely better that the lord-lieutenant should have the sole responsibility, and should be the sole judge who should be the sheriff, instead of that officer being appointed by the local authorities, whose appointment, after all, he might reject. The noble Lord had said, that the machinery of the bill was cumbrous, with respect to the Commissioners. No doubt, in the first instance, the provisions of the bill on this head might be open to that charge; but if the Lords had not provided for the exercise of the powers of the Commissioners, he was perfectly certain, that they would have been accused of haste in not making such a provision. He now came to the most important point, which he had reserved for his last remarks —he alluded to the franchise. If he understood the noble Lord correctly, he proposed to leave the bill as it now stood, with respect to those towns which were not to be incorporated by the bill, and that he should not object to give the majority of 10*l.* householders in those towns which either have had, or never have had corporations, the power to apply for charters of incorporation, nor should he object to the appointment of Commissioners, to be elected by the inhabitants for the management of the town, should they prefer it to a corporation. As the towns had the power already to apply for the benefit of the 9th of Geo. 4th, he thought it better to leave each town to determine whether they would apply for it or not, rather than to enforce it upon them. But the noble Lord had declared his intention of moving an amendment with respect to the franchise, and he (Sir Robert Peel) felt it incumbent upon him to take a similar opportunity of declaring, that it was his intention to dissent from any amendment which the noble Lord might propose on that part of the measure. He was perfectly ready to defer the discussion of this question to the time when the noble Lord should make his proposition. He had the strongest confidence in the justice and force of reasoning by which he should be enabled to contend, that if they were to have a 10*l.* franchise at all, the suggestion made in the House of Commons, and adopted in the amendment of the House of Lords, was infinitely fairer, and more analogous to the practice in England, than that which the noble Lord proposed. He must complain of the comments which the noble Lord made on the course which he (Sir Robert Peel) took, when the bill was originally before the House of Commons. The noble Lord had said, that the Lords had rejected the franchise he had proposed. Now, surely the noble Lord must be aware, when it was said, that they were about to establish a different rule in Ireland than in England, and when by Mr. Poulett Scrope's Act, they were about to make an allowance for the repairs which ought to fall upon the landlord, and for the amount of the insurance —the noble Lord must surely recollect, that on that occasion, he declared, that the difference between him and the noble Lord was upon the question of landlord's repairs and insurance, and that he professed his entire readiness to remove that objection. It might be asked, why did he not propose it while the bill was before the House? Because he felt, that the proposal of such amendment at a time when there was so much angry discussion, would not have met with that calm dispassionate consideration which it deserved, and he feared, that it would have been rejected without any regard to its merits. But an indication to adopt an amendment of that description was thrown out, although he abstained from making any motion upon it. Was it not distinctly avowed by his hon. and learned Friend the Member for Exeter, (Sir W. Follett) and himself, that if they could find out a distinction between the franchise in England and the franchise in Ireland, they were ready to make such provisions as that distinction required? The noble Lord had laid down doctrines with respect to the franchise of a much more extensive nature than he now proposed to apply. On this point there was an irreconcileable difference between him and the noble Lord. If he understood the noble Lord, what he contended for was this—that the Parliamentary franchise meant the amount which the occupier paid in respect of the premises he occupied. Thus, for instance, if a man paid 8*l.* a-year for his house, and 4*l.* a-year for taxes and rates, that in that case he had a fair right to be considered a 12*l.* occupier. [Lord *John Russell*: Not for the Parliamentary franchise.] Very good. But what he contended for was this, that the Parliamentary franchise in England and Ireland meant this; the payment of at least 10*l.* a-year by a solvent tenant to his landlord, coupled with the payment by the tenant of all such rates and charges as properly belonged to the tenant to pay. The Irish Act, any more than the English Act, did not require the payment of 10*l.* altogether in respect to the premises which the tenant occupied, but it required the occupation of premises the value of which was 10*l.* or more than 10*l.*, the tenant paying the rates and taxes which properly belonged to him. He proposed to introduce in the English Municipal Corporations Bill the Parliamentary Franchise of England as the test of the municipal franchise; and he also proposed to introduce the Parliamentary franchise of Ireland into this bill as a test of the corporate franchise there, with the rating, as a check against fraud. By the act of Mr. Poulett Scrope, in determining the net annual value for rating, they made an allowance by law which was not in practice made before, namely, that there should be added to the net annual value of the premises, in respect of which the rating took place, such a sum for landlords' repairs and for insurance, as upon an average of years should be required for the purpose of keeping the premises in a state of repair. They were told that they ought to give the Irish occupier the benefit of the deduction made by act of Mr. Poulett Scrope in the case of English occupiers. They were at that time aware that according to the practice in Ireland it was not the landlord who bore that expense. Yet he and his friends said, that they were perfectly willing to make to the Irish tenant an abatement from the 10*l.* franchise of the amount of the landlord's repairs and insurance. The amendment, therefore, which had been introduced by the Lords was one which was suggested by him and his friends when the bill was passing through the House of Commons. In practice, a certain per centage was not taken, but it was required in each case that the amount of the landlord's repairs and insurance should be estimated; and this was more consonant to the English practice—the principle by which the noble Lord professed to be governed—than to take an average sum which would not be applicable in many cases. The noble Lord had made this proposition—that whereas the franchise might in some cases depend upon a house singly, and in other cases it might depend upon the possession of a house and land, he proposed that in the case of both these qualifications the amount of the reduction should be the same. Now, in England the reduction in respect to land was not more that 2½ per cent.; whereas, in respect to houses, the amount of the reduction differed materially. But the noble Lord said, he would make no difference between houses and land. This he contended would be unjust in its effects and he for one was resolved to stand upon the franchise as consented to in substance by this House, and which was included in the amendment of the Lords, there being no difference between the Lords' amendment, and what was suggested by him in point of principle. He would not enter further into details at present; but he had been forced into the consideration of those details by the speech of the noble Lord; not that he felt that he could not answer the noble Lord when he should come to deal with the details, but he had adverted to them now, because that the noble Lord had made a speech in a spirit which implied that the House of Lords had been actuated by a feeling of injustice and an unfair spirit in making these amendments, and that while professing to give effect to the principle as laid down by the bill, they had intended and contrived, by the abuse of the details, to deprive the bill of all its advantages in respect to the practical benefit of settling these Irish questions in a spirit of conciliation and compromise. My opinion (said the right hon. Baronet) is, that the Lords have acted in a perfectly fair and honest spirit, and that believing the general plan which I proposed did not meet with any insuperable objection on the part of the Government, the noble and learned Lord who proposed these amendments, intended to give effect to it and no more. The charges, then, of the noble Lord against the House of Lords, in respect to each of those amendments, are thoroughly and utterly without foundation. I know not what course the noble Lord intends to take? I know not whether he means to reject this bill altogether and prevent the settlement of the Irish questions, thus keeping alive one great source of discord in this House and in the country; I know not whether that may be the result of our proceedings; but this I know that at the expense of great misconception, at the expense of great personal abuse, at the expense of great sacrifice of private feeling, I have honestly and zealously laboured in conformity with the principles I have laid down, to bring these questions to a settlement, and I shall deeply regret if my attempt shall fail; but I shall not hold myself, or those with whom I am acting, responsible in the slightest degree for the consequences of that failure.

The motion that the amendments be read a second time was then agreed to.

On clause 4 (A of the Lords), which reserved the rights to the freemen being read,

Mr. *Ball* moved, that all the words after the words "would have had a right to be admitted," in page 4, line 9, should be omitted, with the view of substituting others.

Clause, as amended, was agreed to.

On clause 6 (B) of the Lords), which related to the settlement of the boundaries of the various boroughs, being proposed,

Lord *John Russell*, proposed the introduction of an enactment at the end of Clause B, to the following effect:—

> "Provided, also, that it shall be lawful for the Lord-lieutenant of Ireland, with the advice of the Privy Council of Ireland, at any time within twelve calendar months after this Act shall have come into operation, in any borough, to alter the boundaries of any such borough, for the purpose of including therein any part or suburb of the town (if any) which may not be included within the boundaries of any borough as defined under this Act, and also to alter the boundaries of the several wards thereof, in such manner as may become necessary, by reason of any such addition to the borough, or for the purpose of equalising, as far as may be, the number of burgesses, in each ward, and every such alteration shall be published in the *Dublin Gazette*, and every provision in this Act, concerning the boundaries of any borough or ward, as defined under this Act, shall, after any such publication, be taken to apply to the boundaries so altered, as if such altered boundary had been inserted in this Act, instead of the boundary defined by this Act."

Sir *Robert Peel* objected to the amendment, because he thought that it was right for Parliament to define the boundaries; they ought to have full discussion upon the subject, but they ought not to invest an executive officer with this power. This power might be exercised honestly, but there was a great temptation to the contrary. He (Sir R. Peel) for one, was quite content to adopt the boundaries as laid down by their (the Ministers') own commissioners.

Viscount *Morpeth* agreed with the right hon. Baronet, that they ought to view this question with constitutional jealousy. But what alternative had they, except to adopt this amendment? It was true, that the Lords had adopted the report of the Commissioners, and that he (Viscount Morpeth) had introduced a bill founded upon it; but ever since he had introduced it, he had been assailed from all parts with a charge of having acted unfairly and unjustly, and he did not think that it was fair to hurry through Parliament, by a single vote, this important question, without giving an opportunity to the House to state their objections. One town, Limerick, had already petitioned the House against the boundary line proposed for that town, as being unjust, and Government had been charged with corruption in favouring my Lord This, and slighting Mr. That; and he, therefore, saw no alternative in the present state of their proceedings, except by giving this power to the Lord-lieutenant, to be exercised in cases in which it should be imperatively called for, or of postponing the whole question of the boundaries to a future year.

Lord *Stanley* said, that hon. Gentlemen were invited to bring forward objections to the boundaries, and they would have the same opportunity of discussing the details of the boundaries of each separate borough in the schedule, as they would have had in Committee on the noble Lord's bill. There had been ample time to procure information. The report of the boundary commissioners had been for a considerable period, and the noble Lord's bill had been also for some time before them; and if they did not now settle this question, the Government would be open to the charge of favouritism, of assisting this person and slighting that, to which the noble Lord had alluded. The natural remedy for this complaint was, for Parliament to take the subject out of the hands of any party, and to settle the boundaries at once.

Mr. *Lynch* thought, the question ought to be postponed, to give any Irish Members who were interested, an opportunity of taking the necessary measures for obtaining information upon it. He was not alluding to any objection against the boundaries upon the part of his own constituents, but in Cork and Limerick very strong objections had been made to the manner in which the commissioners had defined the boundaries. The attention of the Irish people had not been drawn to the subject, until the noble Lord, the Secretary for Ireland, had brought it forward, and they were not prepared to have it disposed of with such rapidity. He submitted to the House, that it would be productive of advantage, and would afford much satisfaction, if the bill were postponed.

Sir *James Graham* could not concur with the hon. and learned Gentleman, with respect to the necessity or propriety of postponement. He was of opinion, that the effect of postponement, instead of doing good, would be more calculated to produce a contrary effect, for he had not forgotten the experience of the English bill. In that case, the question was postponed, and the greatest inconvenience had arisen from the postponement. If the question of boundaries required to be discussed, that was the period for its discussion, and he could not consent to its postponement. The hon. Members at that side of the House were only anxious to have the question settled, in order that the law might be applied without doubt or cavil, and there was sufficient information before the House to enable them to decide the question at once. The commissioners, who were to be supposed as best capable of judging, had made a most judicious examination of the several localities, and the House was in possession of the report which they had made, and the boundaries they had recommended. He thought this was the time to discuss the question, if it required any discussion, and to come to a conclusion upon it.

Mr. *Sheil* supported the proposition for its postponement. There was a great deal of difficulty in finally determining this question, and that difficulty would certainly rather decrease than increase. The Commissioners had recommended in some cases new boundaries. The boundaries which they mentioned were not in all cases the same as the Parliamentary boundaries, and this was not a difference to be settled with precipitation by gentlemen unacquainted with the locality or geographical position of those towns referred to, or which would be affected. It required a good deal of information in order to be able to give a correct opinion upon such a subject as that. Were the Government not to interfere? Were they to be *estopped* by the commissioners? Was any decision of those gentlemen to be final and binding, and to be acted upon by the House without any reference to its probable effects? If the Parliamentary boundaries had been changed by the Commissioners, surely it was a subject that required the strictest investigation; it required that they should be afforded the advantage of much local knowledge, and this afforded strong grounds for postponement. They were not to be told that the decision of the Commissioners was final and irrevocable.

Mr. *Goulburn* thought, that, if the hon. and learned Member exactly comprehended the question, he would see that there did not exist any obstacle to their discussing it then. The observations of the hon. and learned Member, with respect to the quantity of local and geographical knowledge, was very true and very correct, but he should recollect, that it was in order to obviate that objection the Government sent Commissioners to those towns. They had received the fullest instructions, and the House was now in possession of the result of their inquiries. This information was quite sufficient to enable the House to decide upon the question, and he did not see why they should postpone the settlement of those boundaries—a subject which so vitally affected the practical operation of the bill. It was impossible the House could be in possession of better information upon the question than that which had been afforded by their own commissioners, and he therefore did not at all concur in the feeling, that there existed the slightest necessity for postponing its consideration. He was of opinion that the decision of the Commissioners was deserving of the greatest attention, and that the boundaries which they had marked out ought to be adhered to.

Mr. *O'Connell* thought it odd to hear the Government Commissioners so much praised by the hon. Gentlemen on the opposition side of the House. It augured a foregone conclusion. The Commissioners in some towns changed the boundaries materially. In Cork, for instance, by the new boundary, many persons paying all the city rates would be left out, and thus, whilst they were liable to all the charges of the corporation, they were to enjoy none of the benefits arising from it. This was not a very fair result of the proceedings of the Commissioners. Ought not every man who paid the Municipal rates be entitled to all the advantages of a Municipal Corporation? It would be no more than just, so far as Cork was concerned, that the Members for that city should be afforded an opportunity of expressing their opposition to the adoption of the boundary which had been marked out by the Commissioners. He trusted the House would not come to a decision upon it so speedily, for he strongly felt the necessity for its postponement. If it were postponed even till next Session the pressure would become so strong that they might be forced to adopt the bill even with those objectionable boundaries. In that case they might take a bad bill in order to avoid a worse one; but in this case they were asked to take a bad one at once, without making an attempt to improve it. He was sorry to see the House of Lords, instead of amending the bill, had added another bill to it. He regretted that they had thought proper to pursue so inconvenient a course. The discussion upon this bill had been postponed before, and immediately after the committee, and now they were called upon suddenly to adopt it, with a new bill engrafted upon it by the House of Lords.

Lord *J. Russell* thought, that the proposal made by the Government was hardly understood. He knew that the Commissioners might have performed their duties very ably, but he knew also that persons were sometimes apt to make too narrow boundaries with respect to certain towns. His object, therefore, was to give to the Lord-lieutenant the power, not of excluding any part of a town, but of including any liberties or suburbs, which should form a part of the town. He thought that the House of Lords, having followed a very inconvenient course in bringing this question of boundaries within the provisions of this bill now before the House, there would be no hesitation in adopting this, the only remedy which could be prescribed.

The House divided on Lord John Russell's amendment. Ayes 111; Noes 103;—Majority 8.

List of the Ayes.

Adam, Admiral
Aglionby, H. A.
Alston, R.
Archbold, R.
Baines, E.
Ball, rt. hon. N.
Bannerman, A.
Baring, F. T.
Barnard, E. G.
Bellew, R. M.
Benett, J.
Berkeley, rt. hon. H.
Bernal, R.
Blake, W. J.
Bridgeman, H.
Briscoe, J. I.
Brotherton, J.
Bryan, G.
Byng, G.
Campbell, Sir J.
Cayley, E. S.
Chalmers, P.
Collins, W.
Conygham, Lord A.
Curry, W.
Dalmeney, Lord
Dashwood, G. H.
Duke, Sir J.
Dundas, F.
Dundas, hon. J. C.
Easthope, J.
Ebrington, Lord
Evans, Sir De L.
Evans, G.
Ferguson, Sir R.
Finch, F.
Fitzroy, Lord C.
Gordon, R.
Grattan, J.
Grosvenor, Lord R.
Hastie, A.
Hayter, W. G.
Heathcote, J.
Hector, C.
Hill, Lord A. M.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Hoskins, K.
Howick, Lord
Hume, J.
Hutt, W.
Hutton, R.
James, W.
Jervis, S.
Kinnaird, A. F.
Lefevre, C. S.
Lushington, Dr.
Lynch, A. H.
Macleod, R.
Martin, J.
Morpeth, Lord
Morris, D.
Murray, J. A.
Muskett, G. A.
O'Brien, W. S.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O'Ferrall, R. M.
Palmer, C. F.
Parker, J.
Parnell, Sir H.
Pattison, J.
Pendarves, E. W.
Phillpotts, J.
Power, J.
Price, Sir R.
Protheroe, E.
Rich, H.
Rolfe, Sir R. M.
Russell, Lord J.
Russell, Lord C.
Salwey, Colonel
Scrope, G. P.
Smith, B.
Smith, hon. R.
Somerville, Sir W. M.
Stanley, E. J.
Stewart, J.
Stock, Dr.
Stuart, Lord J.
Strangways, hon. J.
Thornley, T.
Troubridge, Sir E. T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Vivian, Sir R.
Wallace, R.
Warburton, H.
Ward, H. G.
Westenra, J. C.
Williams, W. A.
Wilshere, W.
Winnington, H.
Wood, C.
Wood, Sir M.
Wood, G. W.
Wyse, T.
Yates, J. A.

TELLERS.

Maule, hon. F.
Steuart, R.

List of the Noes.

Acland, Sir T. D.
Acland, T. D.
Alsager, Captain
Arbuthnot, H.
Ashley, Lord
Attwood, M.
Bagge, W.
Baker, E.
Blackstone, W. S.
Blennerhassett, A.
Bramston, T. W.
Broadwood, H.
Brownrigg, S.
Bruce, Lord
Buller, Sir J. Y.
Canning, Sir S.
Chapman, A.
Codrington, C.
Coote, Sir C. H.
Corry, hon. H.
Dalrymple, Sir A.
Darby, G.
Dottin, A. R.
Douglas, Sir C. E.
Dowdeswell, W.
Dunbar, G.
Duncombe, W.
East, J. B.
Eaton, R. J.
Egerton, W.
Eliot, Lord
Ellis, J.
Estcourt, T.
Farnham, E. B.

Fector, J. M.
Filmer, Sir E.
Freshfield, J. W.
Goulburn, H.
Graham, Sir J.
Granby, Marq.
Grant, F. W.
Grimston, Lord
Grimston, E. H.
Hale, R. B.
Hardinge, Sir H.
Hayes, Sir E.
Heathcote, Sir W.
Herries, J. C.
Hodgson, F.
Hodgson, R.
Hogg, J. W.
Hope, hon. C.
Hope, G. W.
Hotham, Lord
James, Sir W. C.
Jermyn, Earl
Jones, T.
Kemble, H.
Knatchbull, Sir E.
Knight, H. G.
Knightley, Sir C.
Lascelles, hon. W.
Lockhart A. M.
Lowther, Col.
Lowther, Lord
Lucas, E.
Lygon, hon. General
Manners, Lord C.
Meynell, Capt.
Miller, W. H.
Moneypenny, T. G.
Neeld, J.
Ossulston, Lord
Parker, M.
Peel, Sir R.
Perceval, Col.
Pigot, R.
Polhill, F.
Pollock, Sir F.
Praed, W. M.
Praed, W. T.
Pusey, P.
Reid, Sir J. R.
Rickford, W.
Round, J.
Sandon, Lord
Shaw, rt. hon. F.
Smith, A.
Stanley, Lord
Sugden, Sir E.
Teignmouth, Lord
Thompson, Alderman
Thornhill, G.
Tollemache, F. J.
Vere, Sir C. B.
Vernon, G. H.
Vivian, J. E.
Waddington, H.
Wall, C. B.
Walsh, Sir J.
Wood, T.
Yorke, hon. E. T.
Young, J.

TELLERS.

Fremantle, Sir T.
Inglis, Sir R. H.

Clause as amended agreed to.

Lord *J. Russell* proposed an amendment to the clause settling the franchise. After the words "shall be" he proposed to introduce the words "rated to the relief of the poor under an act passed in the present Session of Parliament, entitled," &c., at any sum which, on the addition of one quarter part thereof, made in consideration of the annual average cost of the rates, taxes, and public charges, and the probable average cost of the repairs, insurance, and other expenses necessary to maintain the said premises, shall be not less than 10*l.*" It was evident that the effect of these words would be to reduce the rated value to 8*l.* He had no doubt it would be 10*l.* and, probably, more, but the amendment would secure certainty, where, at present, uncertainty existed.

Sir *Robert Peel* begged to observe to hon. Gentlemen that the noble Lord had introduced an entirely new principle into his amendment. He did not propose that the principle adopted in England, that the landlord's repairs, and insurance, and other charges necessary to support the premises in their existing state of repair, should alone be added, but he expressly included rates and taxes. The noble Lord now contended, not merely that these charges of the landlord to keep the premises in repair should be included in the account, but that those charges which fall upon the tenant also should be added. He thought that was a point on which a discussion had before arisen, and that hon. Members on the opposite side of the House were content that the rule in England with respect to the Parliamentary franchise should be applied to Ireland. It was contended, however, that in England, by Mr. Poulett Scrope's Act, allowance was made in the account for the landlord's repairs and insurance, and that it was but just, therefore, to give to Ireland the same franchise. The proposition of the noble Lord, however, was on a completely different principle. He not only made an allowance for insurance, but also a provision for the tenant's rates and taxes taken into it. He relied, therefore, on the support of those who wished *bona fide* for the introduction of the English franchise as the rule on which Ireland should be governed; and he contended, that while they provided that the rateable amount should be 10*l.* they should make a deduction from that on account of repairs and insurance, which fell on the landlord —that that was the just principle to proceed upon, and that it was not just to take one uniform rate of deduction, say twenty or twenty-five per cent., and apply that only. Above all, however, he should contend that it was not just to make an abatement for the tenant's rates and taxes, because the English Parliamentary franchise was the net annual value for which the house would let after the payment of all charges which properly fell on the tenant. His grounds of objection to the plan of the noble Lord, therefore, were, first, that the tenant's rates and taxes should not be taken into account at all, and, secondly, that it was not just to apply one uniform allowance to franchises of all descriptions. He dismissed the first point, because those who agreed with him, that the English Parliamentary franchise should be the rule to proceed upon, would at once come to the conclusion to which he had referred, and he would apply himself to the second point, whether it was more just that an abatement for the landlord's repairs and insurance should be made according to the circumstances of each franchise, which was the proposition which he had made, or whether an addition of twenty-five per cent. should be made on account of these charges, which was the plan of the noble Lord opposite. First of all they were about to have in each individual case an estimate of the landlord's repairs and taxes. They were to go to the trouble of finding that because it had been expressly so provided by the clauses of a bill which had already passed this House, and it was not a question, therefore, whether they should go through the labour of determining it. Having obtained this, then they were to apply the rough average estimate to all cases. Now, he said, that was unjust, and that old and new houses should be considered according to different rules, and in the case of an old house all the difference should be made, and that in a case where a person rented part land and the rest house, it must be less than where it was a house exclusively. Supposing a house to be rented for 3*l.*, and land to be rented to the amount of 7*l.*, would that entitle the tenant to the franchise? The noble Lord proposed that he should have an abatement of twenty-five per cent., and that in a case of a house, the same rule should be adopted, and he (Sir R. Peel) said, that that was unjust. What was good for the house was not good for the case which he had suggested; and so far from making an allowance of twenty-five per cent. in case of land being rented, the amount of repairs would only sanction 2½ per cent. There should, besides, be a different rule for large and small houses. The noble Lord proposed to make an allowance of twenty-five per cent. in all cases; now, what was the case in England? The bill here had fixed one invariable rule. A great diversity of practice had existed, and an Act was passed requiring a uniformity of practice. They provided that no rate should be good which was not made on an estimate of the net annual value of the premises rented; and he now proposed that the franchise in Ireland should be the net annual value estimated in the same way, making the same deductions in each case for the landlord's repairs and insurance. That was the plan applied in England and without complaint, except on account of the great difficulty which existed in ascertaining the value, but that complaint had here been remedied by the Act to which he had already referred. He would now beg the attention of the House to some returns of the rate of allowances for landlords' repairs, insurance, &c., made in some large towns in England. In Bristol, the allowance varied, in small parishes, from 7½ per cent. to 14½, and even 16 per cent. In the old city itself, the deduction on the whole gross estimated rental was nearly 13½ per cent. In Worcester, the deduction averaged 12½ per cent.; in Bridgewater, it was about 10 per cent., and in Gloucester 9 per cent. If the noble Lord meant to abide by the English franchise, the proposition of the noble Lord was incompatible with that object. If, on the other hand, the noble Lord thought he had fixed the franchise too high, let him propose to reduce it; but, if it was proposed to adopt the parliamentary franchise of England, then he said, that the rule he (Sir Robert Peel) had proposed, would establish a franchise in exact conformity with it. He should, therefore, give his vote for the clause as it was now before them, and dissent from the proposition of the noble Lord.

Viscount *Morpeth* said, that the proposition of Government was founded upon the opinion that an indiscriminate mode of fixing the franchise was much less liable to misconception and confusion than one which varied with circumstances. From the right hon. Baronet's statement, it appeared that a great difference existed in England in the accounts of allowance in the rating; and he (Viscount Morpeth) thought it would be found, that in the gross there would be no great disproportion between the proposal of the right hon. Baronet and that of her Majesty's Government. The right hon. Baronet said, he wished to follow the course followed in England. Now, he and his friends had often said, that they were ready to take the English municipal franchise. But, as they were to take a franchise depending on rating, at any rate it should not be according to a rule which would make the franchise much higher than that of England.

Mr. *Hume* regretted extremely, that the noble Lord had consented to raise the franchise at all; but, when he found that his very reasonable offer of a compromise was not accepted, he ought, at once, to have adopted the course of taking the English franchise altogether. He, for one, should be very happy to have an opportunity to vote against both the propositions now before them, and to revert to the *5l.* franchise. He thought that in Ireland, as in England, every rate-payer should have a vote.

Lord *Stanley* rose but to advert to one statement made by his noble Friend opposite, and reiterated by the hon. Member for Kilkenny. It was with respect to the non-adoption of the English municipal franchise in the Irish bill for the settlement of corporations. Whether it were right or wrong, the principle adopted by the side of the House on which he sat, in regard to this measure, was to fix the amount of the municipal franchise in Ireland as nearly as possible the same as the parliamentary franchise in England, and the municipal franchise in Scotland. The parliamentary franchise in England consisted in a house of the clear yearly value of 10*l.*—the municipal franchise in Scotland was derived from that of a residence of six months, or an occupation of twelve. To combine both in the Irish Municipal Bill was their object; and he hoped that they had now succeeded in compassing it by means of the Lords' amendments. He could not, under these circumstances, believe that hon. Gentlemen on the other side of the House would bring themselves to reject a proposal like this, founded as it was on the principles of immutable and substantial justice. The noble Lord and the hon. Member had asked the side of the House on which he (Lord Stanley) sat, why did they not adopt the English municipal franchise in the Irish Municipal Bill. Because, it was quite impossible to do so, was his reply; and they would come to the same conclusion when they considered the real state of the question. By the English Municipal Act, a residence of three years, and rating for that period to the poor-rate, were required to confer the municipal franchise. How was that to be carried into effect in Ireland, where no poor-law as yet existed, and where, consequently, no rating could have taken place under its provisions. The continuous payment of poor-rates for the period of three years was fixed in the Act for the avowed purpose of making the franchise analogous to a 10*l.* holding. In most of the large towns of England there existed extremely little difference in point of numbers between those qualified to vote for Members to Parliament under a 10*l.* franchise and those qualified under a municipal franchise. It was, because those he acted with were desirous to avoid everything which had the appearance of injustice or inequality that the amendments in question were introduced elsewhere in the bill then before the House, and believing that those amendments would have the effect intended, he should decidedly vote against the noble Lord's proposition.

Mr. *O'Connell* said, if the noble Lord were desirous of doing justice to Ireland, he had, undoubtedly, a curious way of exhibiting that desire. The only justice that should and ought to be done was to give the municipal franchise of England to Ireland. In England every man rated to the poor's rate had the municipal franchise.—[Lord *Stanley*: Only when rated three years.]—Oh, that's the crotchet, and if you had not that, you'd easily find another. It is never difficult to discover an excuse when we intend to do an act of wrong. But there could be no difficulty in applying the principle of the English franchise at once, if it were really desired to do so. Let a three years' residence in such a house as would be so rated as the English act required be considered equivalent to a three years' payment of the rate. The houses would all be rated before this act would come into operation, so there could be no pretence for a difficulty on that score. Let them but adopt this plan, and they would have the English franchise established complete in Ireland, and nothing but a disposition not to do justice to Ireland could prevent the noble Lord opposite and his friends from acceding to so reasonable a proposal. This bill, as it came down from the House of Lords, was a mere mockery. Three years ago the Lords wanted to destroy the municipal corporations of Ireland altogether, and the members of those corporations helped them to break them down. But this was found too gross an insult to Ireland to bear being repeated, and now, therefore, the House of Lords substituted delusion for open insult. It was with reluctance, therefore, that he should support the motion of the noble Lord.

Sir *E. Sugden* did not think it necessary to deny the hon. and learned Gentleman's charge, that the English franchise was denied because it was the determination of the side of the House on which he sat to do no justice to Ireland. The hon. and learned Gentleman had stigmatised the argument of the noble Lord (Stanley) respecting a three years' rating to the poors' rate, as a crotchet; but that rating was fixed as a test of the stability of the individual and his competence to exercise the municipal franchise in this country. Now, as there was no poor law in Ireland at present, and as the adaptation of the English municipal system to the corporations of that kingdom was, therefore, clearly impossible, what was proposed to be done was, to give it the same form as existed at this day in Scotland. That was all that had been done, and he would pledge his life, that the Lords' amendments amounted to no more. It was, thererefore, evident that the Scotch system which the hon. and learned Gentleman had asked for had been given: the English it was impossible to give, for the reasons stated. It would be but a delusion, and a mockery to change the clause as amended in the Lords, and, therefore, he should vote against the proposition of the noble Lord, the Secretary for the Home Department.

Mr. *Sheil* did not see how the noble Lord (Lord Stanley) could get over the statement which had just been made by his hon. and learned Friend, which was derived from indisputable returns, and which had been already stated in another place, and had not been denied. With respect to Liverpool, the reason of the equal relation of the municipal and Parliamentary voters might be, that the freemen were Parliamentary voters. Now, with respect to the noble Lord's difficulty in applying the English franchise on account of the three years' rating, he would ask the noble Lord this question—would he consent, that in 1841, taking a ten-pound rate, the English system should come into operation, and that in the mean time the Scotch plan should be resorted to? Did the noble Lord think, that the English system was one which could ever be applicable to Ireland? and if not, let the noble Lord tell the reason why it was not. Suppose a case. He let a house to a man at 8*l.*, paying 2*l.* for insurance and repairs. In that case the tenant would be entitled to vote. Let the tenant agree to pay the taxes and insurance, and what was the result? He would only pay 6*l.* a-year, and he would no longer be entitled to the elective franchise. Put the repairs and insurance upon the landlord, and the tenant would be entitled to vote; but put them on the tenant, and he will be no longer entitled to vote. He would advert to the argument that had been urged by the other side, and especially by the right hon. Gentleman the member for Tamworth. The right hon. Gentleman said, that the objection to the uncertainty of the repairs and of the amount of the insurance were unfounded, because the amount of the insurance and the repairs would be ascertained by another bill. But would there not be the same uncertainty in ascertaining the amount of insurance and repairs under the Poor-law Bill as there would be with respect to the Municipal Bill? What would be the state of things? Under the Poor-law Bill an individual coming to be rated would remember that under the Municipal Bill he would derive a certain franchise provided his repairs and insurance amounted to a certain sum. He would be interested, therefore, most materially, in swelling them to the highest possible amount; and would there not follow all the uncertainty, and ambiguity, and loose swearing which were inveighed against when the proposition was originally made that the rate should be employed? The great objection of the hon. and learned Member for Exeter (Sir W. Follett) to the 10*l.* franchise without a rating was, that without it great uncertainty would prevail. What was the course taken in the House of Lords? The repairs and the amount of insurance paid by the landlord were to be added to the amount of the rate. Would this not open a door to uncertainty? How were they to ascertain the insurance? The amount would depend upon every diversity of local risk, and it was manifest that the amount of repairs would depend on the extent of dilapidation. Thus all the evils against which hon. Gentlemen opposite so strongly remonstrated, were let in by their own bill. With respect to the course which Government had taken, it struck him that it must have cost some sacrifice of pride and feeling on the part of the Irish Members to accede to it. If he were to obey the first impulses with which he perused the present bill, he should have been for rejecting it. Leave them to the old and unfortunately the odious features of the system by which the redress of the grievances of the country had been so long obstructed. But he felt that it was incumbent upon them to have recourse to every honourable effort to settle this question. The Government had descended from the high ground which they had at first taken up. They offered to meet midway the proposition of the other side. They had a large majority of thirty-five in favour of the 5*l.* qualification. The House of Lords raised the franchise to 10*l.*, and, under these circumstances, when the House of Commons and the other House disagree, was not some sacrifice to be made on both sides? The right hon. Baronet the member for Tamworth spoke of the difficulties in which he was placed. He perfectly well understood them, and he for one was desirous that the right hon. Baronet had perfect freedom of action but he put it to the right hon. Baronet whether, when the representatives of the people came forward and tendered to the House of Parliament a measure of this sort, and when, with a feeling that collision was to be deprecated, the Government came forward supported by their party, and made an offer of a sacrifice, the reason should not be very strong that would induce the right hon. Baronet to reject the compromise. This was a sacrifice made on that (the Ministerial) side. Was there to be no sacrifice on the other? What was the way in which they had treated Ireland? Two years ago they proposed to destroy corporations in Ireland altogether. They were foiled in that attempt at Conservative demolition. When they were driven by the feeling of the people of England to grant them British institutions, they sought to invest them with one in English character. In the House of Lords they were in the enjoyment of a majority, and they insisted upon a 10*l.* rate. They were possessed of power in the other, but they were not possessed of power in that House, and they must make some sacrifice if they were really solicitous to put an end to those most painful and embittered contests. What motive had they for not doing so? They had given to Ireland the same system of sheriffs as in England; but in England by their Corporation Bill they reserved to Bristol, Norwich, and other towns, the right to elect their own sheriffs, whilst they deprived Ireland of that right. They had deprived the city of Dublin of the privilege which they had continued to the city of London. Would they have dared to take from the citizens of London the appointment of their own sheriffs? They did not venture to take this right from the English corporations, and the noble Lord the Secretary of State for the Home Department pressed this point in his speech. The right hon. Baronet answered the noble Lord in most of his points, but he had not attempted to say that the system in England and Ireland ought not to be the same. They wanted the English system, o something like it, and why were they d prived of it? What was the reason for taking this course, and that, too, by the men who granted Catholic emancipation? He did not refer to this in any unkindly spirit, but he begged to remind the right hon. Baronet, that when he brought forward the Catholic question, which allowed the Catholics of Ireland to be invested with municipal privileges, he introduced a clause into his bill which provided that Roman Catholics should be admitted to corporations. From that day to this not a single Roman Catholic had been admitted into the chief corporation of Ireland. He did not blame the right hon. Baronet for this, but when the right hon. Baronet considered that the object of this very measure was to carry into effect the Catholic Emancipation Act, surely he ought not to endeavour to suppress corporations, or to raise the qualification far higher than in justice it ought to be. The right hon. Gentleman said, that it was not because they were Catholics. He thanked the right hon. Gentleman for telling them so, and he felt bound to believe him, but what was the course taken by others? From the very outset the suppression of corporations, and the raising of the franchise were put upon the ground, that there were six millions of Roman Catholics in Ireland. When they gave them emancipation, they ought to have put no limits to their confidence. The Catholic Emancipation Act might, in the opinion of some, have failed, but in his judgment it had not failed, because it raised the warm and heartfelt sentiments of a generous allegiance. They were wrong in not following it up, and they were wrong in adopting a policy, the consequences of which they had themselves foreseen and prophesied; they were wrong in creating hostility to one class of their fellow-subjects, and, above all, they were wrong in disregarding the advances of the millions in Ireland, and in omitting to recollect that the time might arrive when this country would stand in need of the aid of a powerful, united, and concentrated people.

Sir *R. Inglis* said, that the hon. and

learned Gentleman called upon the Members of that House to make some sacrifice. Had they made no sacrifice in offering to surrender those corporations which were the strongholds of Protestantism in Ireland? He had always objected to this course. He grieved at it. He knew that the law of the land, if vindicated, wassufficient to punish misconduct in corporation elections, and that the Court of Chancery could correct mismanagement of corporation funds. He never, therefore, admitted the necessity of destroying corporations in Ireland, but Parliament had destroyed them, and the question now was, what they should raise upon the ruins? They on that side of the House had made a sacrifice in going to the length to which they had gone. As to the case put by the hon. and learned Member for Tipperary, a child in arithmetic must see its fallacy. In the one case they had 10*l.* paid by two persons, in the other, they had 8*l.* paid in the same way. He would not enter into the question of Roman Catholic emancipation, all he would say was, that the hon. and learned Member ought to be the last man to taunt those who had introduced that measure.

The *Chancellor of the Exchequer* rose amidst loud cries of "divide!" He said, that the hon. Baronet who had just sat down must either condemn or acquit corporations. If he condemned them, there was no sacrifice in destroying them, and if he acquitted them, surely nothing ought to have induced him to consent to make a sacrifice of them. But the truth was, that the Gentlemen opposite condemned the corporations of Ireland, they saw that they were indefensible, and that the time was come when no Gentleman in that House could rise and refer to facts and statements in defence of the present corporations of Ireland. That was the real key to the sacrifice. But to come to the real point before the House, which was, in fact, the most essential part of the bill, and let Gentlemen before they divided upon this clause, consider well what it contained, and the manner in which it came before the House. In the first place, he would admit that an extension of the franchise might not always be good in itself, and he was further willing to admit, that under the clause as proposed by the other House, they might practically get a larger number of voters, but by connecting the Municipal Bill, and the Poor-law Bill, and the rating clause, wherever there was a disposition, and certainly such had been expressed very generally on the other side, to acquire political rights, and to extend the franchise, this clause, as sent down from the other House, would give an opportunity to extend it fraudulently upon the oath of the party himself. This he called extending the franchise in a bad sense, and certainly the clause in that sense would extend it farther than was proposed by his noble Friend's clause. The amendment made by the House of Lords would give rise to great uncertainty, whereas certainty was the foundation of all the right hon. Baronet's argument. How were they to know the amount of repairs, or how were they to calculate the question of insurances? They referred them to another bill. That bill would work very well for its own purpose; but if they applied its provisions as a stimulus to political excitement, it would prove a bill for the purpose of fraudulently extending the franchise, and creating universal political distrust. He had referred on a former occasion to the state of the city of Limerick to show, that a rating clause with a rating value really differed from the actual value of a house to the amount of twenty-five per cent. Since that he had followed up the valuation in Belfast, and the result was exactly the same. The gentlemen on the other side refused to give the municipal franchise of Scotland to Ireland. [*No, no!*] Would they give it in the same words and letters? They would not do so. He had heard from the noble Lord opposite (Lord Stanley) an admission which he should treasure up with the greatest possible delight. That noble Lord stated, that his objection to the introduction of the English franchise was the impossibility of introducing it in the first instance. But it would not be impossible three years after the rating took place, and, therefore, if they passed the bill in its present shape, the people of Ireland would be entitled to come to Parliament three years hence when there had been three years' rating, and to claim from the noble Lord all the weight of his authority and the support of his vote in giving to Ireland when it was no longer impossible to do so the full benefit of the English franchise. There was one point to which he wished to advert. There was a disposition on the part of hon. Gentlemen opposite to connect the municipal franchise with the Parliamentary franchise, and to impose upon the franchise a certain condition, from which he augured, that when an opportunity arose, if they could raise the municipal franchise by this bill, they would seek to apply the analogy to the Parliamentary franchise. He could not account for the course taken now with reference to Ireland, as distinguished from the course taken with reference to England, upon any other hypothesis. It was said, that Government was making no sacrifice, no concession. Why, the arguments of those who sat behind them, and who had taunted them for what they had done, was a sufficient reply. They had tendered a rating, they had abandoned the *5l.* clause, and they gave what was tantamount to the original proposition of 10*l.* value, adding the rating. He was as anxious as any individual to see this question and others settled; and he must say, that the offer now made to the House was a fair and a just offer on the part of Ireland, which the House would long regret if they did not avail themselves of that opportunity of accepting.

Mr. *E. Turner* rose to remark on two very important points arising out of this night's debate. The hon. and learned Member for Dublin had stated, that in the borough of Leeds there were no more than 6,000 Parliamentary electors, although there were 25,000 municipal electors. That learned Gentleman had also stated, that in the borough of Stockport there were 3,000 Parliamentary electors, and 9,000 who voted for municipal officers. In the early part of this debate the noble Lord opposite (Stanley) stated, that he considered the municipal electors, who, of necessity were required to occupy the same premises three successive years, and pay all the rates and taxes charged thereon before they could exercise their municipal franchise, were nearly approximate to the persons who occupied a ten-pound house, and who voted for Members of Parliament, and this sentiment was immediately after responded to by the right hon. and learned Member for Ripon. Now, he wished this House and the country to know, that hon. Members on the other side admitted that there were, in the boroughs of Leeds and Stockport 25,000 persons eligible to choose their own representatives who did not now enjoy that privilege; and, doubtless, that was about the proportion in all other places having the elective franchise. Hon. Gentlemen opposite might depend on one thing, that another Session of Parliament would try the sincerity of their professions.

The House divided on the question that the Lords' amendment stand part of the clause: Ayes 154; Noes 169: Majority 15.

List of the Ayes.

Acland, Sir T. D.
Acland, T. D.
A'Court, Captain
Alsager, Capt.
Arbuthnot, H.
Ashley, Lord
Ashley, hon. H.
Attwood, M.
Bagge, W.
Baker, E.
Barrington, Lord
Blackburne, J.
Blackstone, W. S.
Blair, J.
Blennerhassett, A.
Boldero, H. G.
Bramston, T.
Broadley, H.
Broadwood, H.
Brownrigg, S.
Bruce, Lord E.
Buller, Sir J. Y.
Burrell, Sir C.
Canning, Sir S.
Castlereagh, Lord
Chandos, Marquess
Chapman, A.
Chute, W. L. W.
Codrington, C. W.
Compton, H. C.
Corry, hon. H.
Dalrymple, Sir A.
Darby, George
De Horsey, S. H.
D'Israeli, B.
Dottin, A. R.
Douglas, Sir C.
Douro, Marquess
Dowdeswell, W.
Dunbar, G.
Duncombe, W.
East, J. B.
Eaton, R. J.
Egerton, W. T.
Ellis, J.
Estcourt, T.
Estcourt, T.
Farnham, E. B.
Farrand, R.
Fector, J. M.
Filmer, Sir E.
Fitzroy, hon. H.
Fleming, J.
Forrester, hon. G.
Freshfield, J. W.
Gibson, T.
Gladstone, W. E.
Gordon, Captain
Goulburn, H.
Graham, Sir J.
Granby, Marquess
Grant, F. W.
Grimston, Lord
Grimston, E. H.
Hale, R. B.
Hardinge, Sir H.
Hayes, Sir E.
Heathcote, Sir W.
Heneage, G. W.
Henniker, Lord
Herbert, hon. S.
Herries, J. C.
Hillsborough, Earl of
Hodgson, F.
Hodgson, R.
Hogg, J. W.
Hope, hon. C.
Hope, H. T.
Hope, G. W.
Hotham, Lord
Ingestrie, Lord
Inglis, Sir R. H.
Irvine, J.
James, Sir W. C.
Jermyn, Earl
Jones, J.
Kemble, H.
Kerrison, Sir E.
Knatchbull, Sir E.
Knight, H. G.
Knightley, Sir C.
Lincoln, Earl of
Lockhart, A. M.
Lowther, Col.
Lowther, Lord
Lowther, J. H.
Lucas, E.
Lygon, hon. General
Mackinnon, W.
Mahon, Lord
Manners, Lord
Meynell, Captain
Miller, W. H.
Milnes, R. M.
Monypenny, T.
Neeld, J.
Neeld, J.
Norreys, Lord

Ossulston, Lord
Pakington, J. S.
Parker, M.
Parker, R. T.
Peel, Sir R.
Perceval, hon G.
Perceval, Colonel
Pigot, R.
Polhill, F.
Pollock, Sir F.
Praed, W. M.
Praed, W. T.
Pusey, P.
Reid, Sir J. R.
Richards, R.
Rickford, W.
Rose, Sir G.
Round, J.
Rushbrooke, R.
Rushout, G.
Sandon, Lord
Shaw, rt. hon. F.
Sibthorp, Col.
Smith, A.
Somerset, Lord G.
Spry, Sir S. T.
Stanley, Lord
Sturt, H. C.
Sugden, Sir E.
Teignmouth, Lord
Thomas, Col. H.
Thompson, Alder.
Thornhill, G.
Tollemache, F.
Trench, Sir F.
Tyrell, Sir J.
Vere, Sir C. B.
Verner, Col.
Vernon, G. H.
Vivian, J. E.
Waddington, H.
Walsh, Sir J.
Whitmore, T.
Wood, T.
Yorke, hon. E. T.
Young, J.

TELLERS.

Holmes, W. A. C.
Freemantle, Sir T.

List of the NOES.

Adam, Admiral
Aglionby, H. A.
Alston, R.
Archbold, R.
Baines, E.
Ball, rt. hon. N.
Bannerman, A.
Baring, F. T.
Barnard, E. G.
Bellew, R. M.
Benett, J.
Bentinck, Lord W.
Berkeley, hon. H.
Berkeley, hon. C.
Bernal, R.
Blake, W. J.
Bowes, J.
Brabazon, Lord
Bridgeman, H.
Briscoe, J. I.
Brotherton, J.
Bryan, G.
Byng, G.
Campbell, Sir J.
Cave, R. O.
Cavendish, C.
Cayley, E. S.
Chalmers, P.
Childers, J. W.
Clay, W.
Clayton, Sir W.
Clements, Lord
Codrington, Admiral
Collins, W.
Conyngham, Lord
Coote, Sir C. H.
Cowper, hon. W.
Craig, W. G.
Crompton, Sir S.
Currie, R.
Curry, W.
Dalmeny, Lord
Dashwood, G. H.
Divett, E.
Duckworth, S.
Duke, Sir J.
Dundas, F.
Dundas, hon. J. C.
Easthope, J.
Ebrington, Lord
Eliot, Lord
Ellice, Capt. A.
Evans, Sir De L.
Evans, G.
Fielden, J.
Ferguson, Sir R.
Finch, F.
Fitzgibbon, Col.
Fitzroy, Lord C.
Fleetwood, Sir P.
Gordon, R.
Goring, H. D.
Grattan, J.
Grey, Sir G.
Grosvenor, Lord
Grote, G.
Hallyburton, Lord
Hastie, A.
Hawes, B.
Hawkins, J. H.
Hayter, W. G.
Heathcoat, J.
Hector, C. J.
Hill, Lord A. M.
Hindley, C.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Holland, R.
Horsman, E.
Hoskins, K.
Howard, P. H.
Howard, Sir R.
Howick, Lord
Hume, J.
Hutt, W.
Hutton, R.
James, W.
Johnson, General
Kinnaird, A. F.
Labouchere, H.
Lefevre, C. S.
Lemon, Sir C.
Lushington, Dr.
Lushington, C.
Lynch, A. H.
Macleod, R.
Marshall, W.
Martin, J.
Martin, T. B.
Maule, hon. F.
Mildmay, P. St. J.
Morpeth, Lord Visc.
Morris, D.
Murray, J. A.
Muskett, G. A.
O'Brien, W. S.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Paget, Lord A.
Palmer, C. F.
Palmerston, Lord
Parker, J.
Parnell, Sir H.
Pattison, J.
Pechell, Capt.
Pendarves, E. W.
Philpotts, J.
Ponsonby, hon. J.
Power, J.
Price, Sir R.
Protheroe, E.
Pryme, G.
Redington, T. N
Rice, T. S.
Rich, H.
Rolfe, Sir R. M.
Rumbold, C. E.
Russell, Lord J.
Russell, Lord
Russell, Lord C.
Salwey, Colonel
Scrope, G. P.
Seymour, Lord
Sheil, R. L.
Smith, J. A.
Smith, B.
Smith, hon. R.
Smith, R. V.
Somerville, Sir W.
Stanley, E. J.
Stewart, J.
Stock, Dr.
Stuart, Lord J.
Strangways, J.
Style, Sir C.
Surrey, Earl of
Thomson, C. P.
Thornely, T.
Troubridge, Sir E. T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Vivian, Sir R.
Wall, C. B.
Wallace, R.
Warburton, H.
Ward, H. G.
Westenra, J. C.
Williams, W. A.
Wilshere, W.
Winnington, H.
Wood, Sir M.
Wood, G. W.
Wyse, T.
Yates, J. A.

TELLERS.

Wood, C.
Steuart, R.

Mr. *Ball* proposed to leave out "words introduced by the Lords," which went to limit the rating to the relief of the poor and to substitute words which included all cesses and rates.

Mr. *Shaw* insisted that the words ought to be retained.

Mr. *O'Connell* observed, that the words were in the clause as to the payment of local rates and taxes, and therefore he did not think the words objected to ought to be retained.

The House divided on the question that the Lords' amendment be retained: Ayes 144; Noes 162: Majority 18.

Words rejected.

Clause 14: By this clause it was enacted, that the collectors of cesses, rates, and taxes, the payment whereof is required for the purpose of entitling any person to be enrolled as a burgess, should open accounts with the Bank of Ireland or the Provincial Bank of Ireland, and that it should be lawful for every person liable to pay any such cess to pay the same into the Bank, and such payments should be deemed to have been made to the collector to whose credit it was paid.

The Lords having struck out this clause,

Mr. *Ball* moved, that the Lords' amendment be rejected, and the clause restored.

Sir *E. Sugden* opposed the motion.

Mr. *O'Connell* supported it, and said, it often happened, that persons were disfranchised by reason of the collectors purposely keeping out of the way, in order to avoid receiving the payment of the rates and taxes.

The House divided on the question to disagree with the Lords: Ayes 157; Noes 137: Majority 20.

Clause reinstated in the bill.

Adjourned.

[The division on the question of the franchise, being the principal one, and nearly the same persons dividing on the two other questions, it seemed unnecessary to print the lists of more than those of the division on the franchise.]

* * *

HOUSE OF LORDS,

Friday, August 3, 1838.

MINUTES.] Bill. Read a third time:—Sheriffs' Advocations (Scotland).

Petitions presented. By the Archbishop of CANTERBURY, Lord RAVENSWORTH, and the Earl of HARROWBY, from a number of places, against Hindoo Idolatry.—By Lord BROUGHAM, from the Lord Mayor, Alderman, and Common Council of London, for an Improvement in the Registration under the Reform Act.—By the Earl of HADDINGTON, from the Diocese of Ardagh, in Ireland, in favour of the Irish Church.

TITHES (IRELAND).] On the motion of Viscount Melbourne, the following passage from the speech of her Majesty at the commencement of the Session was read by the clerk:—"The laws which govern the collection of the tithe composition in Ireland require revision and amendment. Convinced, that the better and more effectual administration of justice is among the first duties of a Sovereign I request your attention to those measures which will be submitted to you for the improvement of the law."

Viscount *Melbourne* then stated, that he had received her Majesty's commands to announce her consent to the introduction of the measure before the House, and he begged leave to move, that their Lordships go into Committee on the Tithes (Ireland) Bill. As it had been agreed to without any observation on the second reading, it might be expected, that he should at least state generally what was the object and intention of the bill in its present stage. Although he felt the deep importance of this measure, and of this subject, and although he felt, among many great and pressing measures which forced themselves on the attention of the Government, upon the attention of Parliament, and upon the attention of the country, that this was perhaps the most pressing, and urgent, yet, at the same time, it had been so repeatedly discussed in that House, the principles upon which the bill was founded had been so repeatedly stated to their Lordships, the opinions of most of their Lordships were so well known upon them, and the great principle of the bill had been upon all occasions so generally admitted, that he did not feel it necessary, notwithstanding the great importance of the question, to address many observations to their Lordships upon the present occasion, or for any very long time to interfere between their Lordships and the Committee, into which he trusted it would be the determination of their Lordships to enter. When questions were of very great and deep importance, when they very deeply and strongly affected the interests and feelings of great bodies of the Queen's subjects, when they were in themselves of an exceedingly sensitive and inflammatory nature, and when they were extremely difficult of solution, when, in fact, they presented almost insuperable difficulties, it appeared to him unquestionably to be more prudent not to stir or agitate such questions unnecessarily, or to make them topics of superfluous discussion. He should, therefore, on the present occasion and in the few observations which he had to address to their Lordships, entirely refrain and abstain from touching upon any of those great questions, the very important questions of civil and ecclesiastical polity, with which their Lordships all knew this question was closely and deeply connected. He should confine himself to the bill at present before their

Lordships, and to the statement of the great principles of that measure. This bill was founded upon the principle which had been the principle of all former bills on this subject, and with respect to the adoption of which there had been, as far as he recollected, no difference of opinion amongst their Lordships, the only questions arising upon the details of the measure. The principle and the chief provision of this bill was, to convert the present tithe composition of Ireland into a rent-charge payable by the person who held the first estate of inheritance, that first estate being accurately and strictly defined by the bill, and being such an estate as might be considered as to extent amount and duration, to all practical purposes equivalent to the possession of the fee simple of the land. It was not necessary to state the reasons or object of this change and alteration. It was not for him to point out—it was obvious to their Lordships—that to relieve the occupying tenant from the liability of discharging his tithe, and to throw the discharge of what was due on those who were in every respect more able, in every respect more willing, upon those who were few in number and higher in station, would unquestionably put an end to, and close the unfortunate discords and tumults that had arisen from this cause in Ireland, or at least would put an end to them in the form in which they had hitherto existed. This was the great principle and object of this bill. There were two points which were new, and which had not been adverted to in the former measure on this subject. These were the provisions with respect to that portion of the million which had been advanced under the act of the year 1833 for the relief of the clergy of Ireland and also the provision with respect to the arrears of the tithes that had accrued due during the last four years, and during the unfortunate difficulties which had been met with in the collection of tithes. It was perfectly obvious, that unless they closed up all questions with respect to the arrears, unless they put an end to all collection of those arrears in that country they would not be giving this measure fair play, and they would not be taking the best means for accomplishing the end in view. If they left the arrears still to be collected by the clergy from the occupying tenant, they could not make the measure so complete as they ought to make it; they would not be giving a fair chance of accomplishing the beneficial object which they expected from it. By the clause, therefore, of this bill the Lord-lieutenant was empowered, and not only empowered, but directed, to remit to the clergy the instalments due from them of the million which had been advanced to them, and thus exonerate them from the necessity of levying it from those by whom it was due. With respect to the residue of the million, which amounted to about 260,000*l.*, certain sums having been advanced to the clergy and certain sums having been appropriated to other purposes it was proposed to apply this residue to the satisfaction of the arrears according to the claims of the titheowners with respect to the arrears accruing due during the last four years, namely, 1834, 1835, 1836, and 1837. It was to be remitted only to the clergy and was not to be remitted to those lay impropriators who possessed both the land and the tithes, nor to those clergymen who had already received from their debtors that portion of the tithes that was due to them. It was impossible in a debate to go into calculations on this subject and he would, therefore, refrain from doing so. He had some calculations that had been made, but he was rather fearful of future calculations, particularly in pecuniary matters, as he knew they were very apt not to be justified by the result. It had, however, been supposed, that for the last four years 500,000*l.* was due upon the amount of tithes, and about 270,000*l.* previously. By the 260,000*l.*, together with the sums that had been received and that were to be received from lay impropriators, it was supposed, that they would raise 500,000*l.*, which would be sufficient to pay the clergy about 70 per cent. upon those arrears. This was the calculation which had been made; but he begged, however, not to be understood as making himself responsible for its perfect accuracy, or as pledging himself as to the future result. Those provisions were new, and it was perfectly evident what were the grounds and object of introducing them into the present bill. Whatever objections might be urged to them, those objections were overborne by the greater advantages, and, in present circumstances, the necessity of them for the welfare and the beneficial operation of this measure. He did not know, that it was necessary for him to make any other observation upon the other clauses of the bill, which were subsidiary to the main object, and only framed to carry into effect those principles which he had stated to their Lordships. But there were unquestionably certain clauses which were not new, which they had had in all the bills sent up from the House of Commons on this subject, and to which, as their Lordships very well knew, very great objections were entertained by many Members of this House—he meant those clauses which provided, in certain cases of excess, in certain cases of alleged fraud, in certain cases of mistake and want of care, for the re-opening and the re-consideration of the composition for tithes as it at present existed. He knew this was very much objected to as unnecessary, as breaking into and re-opening and ripping up contracts founded upon parliamentary sanction, and which had been solemnly decided upon. On the other hand, it was perfectly certain, that there were many cases in which these compositions were extremely beyond the mark, and beyond the real value of the property, in which they had been made with very great carelessness and neglect, and where, in consequence, very great excess prevailed in the amount with which the land was charged for tithe; and it was generally admitted, that, with respect to a certain class of compositions, those which had been compulsorily formed under the act commonly called Lord Stanley's Act, at a time when great violence existed on one side, they had been carried into effect without that care which was required, and whether the charge had been made fairly or unfairly in those cases, unquestionably those compositions could not be relied upon as being in any degree fair representatives of the property which they were intended to assess and to represent. Upon those grounds, he might say extraordinary grounds, those clauses were introduced which gave to a certain number of persons, possessing a certain portion of composition, the right to apply for a revision and re-consideration of the contract upon certain alleged and specific grounds mentioned in the bill, namely, want of care, excess, fraud, and misrepresentation in the beginning andi n the formation of the contract. He knew very well, that their Lordships would look with jealousy on a principle of this sort, because there might have been one or two exorbitant or extravagant cases; but at the same time, if there had been a great deal of remissness, if the country suffered under these charges, as it did suffer, he trusted, that upon a fair consideration the House would be disposed to sanction the revision of those contracts, carefully guarded and secured as such revision was by the bill. These were the principal provisions of this bill, and he did not know whether it was necessary for him to trouble their Lordships with any public observations upon them, or upon anything connected with them. He knew nothing was more dangerous than to anticipate anything like success upon any measure. He knew, also, that nothing was more unwise, or more likely to end in disappointment, than to prognosticate anything like supposed contentment or tranquillity; but he begged leave to say, that although he did not draw any flattering picture of that description, yet knowing, that he had himself the same object as all their Lordships had in view, he presented to their consideration this bill on the present occasion, as the best and most prudent from which it was possible to hope for success under present circumstances. The noble Viscount concluded by moving, that the House resolve itself into Committee on the Tithes (Ireland) Bill.

Lord *Brougham:* If I could agree with the noble Viscount, not merely in the opinion with which he concluded his address, that this is the best bill that could be framed, and that it is the measure most likely to attain the end we all have in view with respect to Ireland under present circumstances, and particularly if I could agree with the observation with which the noble Viscount commenced his speech, that the subject matter now before you had been so often already discussed as to make it superfluous to moot again points that had been so frequently dealt with and decided, my present task would indeed be reduced within limits more commensurate at once with my own inclination and the patience of your Lordships. But it is because I do not take that view of this measure with which the noble Viscount's speech closed, and it is because I know—for this is no matter of opinion, it is matter of fact—it is because I also know, that the noble Viscount has misstated, doubtless from not accurately recollecting the relative position in which he now stands, and in which he formerly stood when this question was last before the House, that I feel it to be my indispensable duty, a duty from which I may not shrink, to enter my protest in this first stage, in which I have had an opportunity, in debate at least, of doing so, and of expressing my dissent, and the reasons of that dissent, from the measure of the noble Viscount. As to any picture that can be drawn prospectively, flattering to the hopes of those who are its friends, or as to any past kind of sketch that might be given by those who, feeling deeply apprehensive of the consequences, avow themselves its adversaries, I purposely, for the present at least, would abstain, as the noble Viscount has done, from any such expressions, deeming it generally rather rash, inasmuch as expectations raised are often disappointed, and fears entertained as frequently afterwards prove to be unfounded. But there is one remark of the noble Viscount's in which I entirely agree, in which the noble Viscount said, that calculations were dangerous as well as perspective sketches, and that those calculations which were made of what was to happen in future were very often frustrated by the event. This bill, my Lords, at once gives a very remarkable instance of the truth of the proposition, and it is the first of the grounds which I have stated to your Lordships for not feeling it possible to retire from the discussion of this subject, namely, that it is not the measure we have formerly discussed. The calculation is this. When my noble Friend, Lord Althorp, with my entire concurrence as a Member of the same Government with himself and the noble Viscount, propounded the million advance to the Irish Church, the calculation (to use the phrase of the noble Viscount) then was, that it was a loan, and the expectation raised by that calculation necessarily followed, that like other loans, the party advancing it was to have a claim of repayment; and also like other creditors, the repayment was sooner or later to take place by the payee in the calculation—the Church to whom it was advanced; or if it were not advanced to the Church, but only to relieve the payers of tithes, namely, the Irish landowners, that after a time these Irish landowners would repay, as it suited their convenience, but still sooner or later repay the money so advanced. Well might the noble Viscount say, in opening the measure to-night, as a general proposition, that calculations are not always realized, for it is not above four years since that calculation was instituted, and with that result; and we are now converting the loan into a gift, and at the time when we had well hoped that the repayment of the million might have been effected, instead of the repayment we have been favoured with a conversion, and what was a loan we are to abandon at once and for ever. Now, therefore, I have a right to say that this is not the measure which has been so often discussed before—that this is not the same argument into which we have already entered—that they who approved of the former measure may most consistently as they do conscientiously, disapprove of this measure. But that measure sinned against no principle, and, if I am not much deceived, I shall satisfy some at least of those who agreed with me in patronising that measure, that the present measure sins against all. My Lords, so much for the changes in the bill as regards what is still in it; but a great deal has been left out. The bill wants the jewel in the head of the former measure.—I find nothing of that which mainly recommended the former measure. I see a blank in that portion of the bill which in former times contained all that smoothed the path to the support which many a man gave it, and, at all events, to that which chiefly made many who desired much more, rest satisfied with the little that was then bestowed. I allude to what was commonly called the appropriation clause. What has, in the name of wonder, and in the name of consistency—and I wish to say nothing offensive when I add in the name of principle—what is it that has expunged the appropriation clause entirely from the present bill? My watching and longing eyes search for it in vain. There is nothing whatever in the present bill to console those who approved of it on principle—there is nothing to comfort my noble Friend the Secretary for the Home Department, one of the most strenuous advocates for that principle, both in the Cabinet, where I had the honour of sitting with him, and out of the Cabinet, and in the country, and in his writings, and in his speeches, and in his motions in the other House of Parliament. No comfort has either he or I in looking at the provisions of this new-fangled, new fashioned bill; appropriation is as much passed over

—as much given to the winds—as absolutely and as entirely abandoned—as if it had never been mentioned, or the name never coined, or the word derived from the Latin, or the thing never debated in the other House of Parliament. Those who sit on the opposite side of the House must be as much surprised as myself—but for a different reason. I wished to have seen it in the bill—had hoped to find it there; because of the principle which it asserted, and the bill was said to derive its whole value, because of the principle which it did assert. Those who sit opposite dreaded to find it in the bill—they could scarcely expect to be relieved from it—they hardly dared to hope they would not find it. For why? They well recollected how much they, in other times, had suffered under that word and from that cause. I might have forgotten the recent history of this bill, for it has a tendency to pass from one's recollection—it has a tendency to obscure and obfuscate one's memory on the subject—but if I have not very much forgotten the state of parties in this country—I go no further back than three years—there was a motion somewhere or other—for the very express purpose of asserting this great principle which no liberal man could possibly abandon—the principle of appropriation as to the Irish church. As one of the great political parties felt it impossible honestly to abandon that principle in which I partly join with them, so another of the great parties found it as impossible to accede to that doctrine of appropriation—and in that other House of Parliament I may speak of it without great irregularity, because it was on the votes at the time, and as that House has since died a violent death, and is no longer in existence—in that House there was a vote passed, the result of which was that one government was broken up. And the noble and learned Lord opposite (Lyndhurst) whom I remember I saw on the very day of his going out—will recollect, that I had the pleasure of some conversation with him on the subject, and we ventured to offer predictions as to the future, almost all of which have been by the event fulfilled. But amongst those predictions in which our fancies that morning indulged, I will freely confess that I never did reckon on one, and I believe he was as guiltless of fancying as I was, that we should ever live to see the day when appropriation should be given to the winds as if the thing had never been talked of, as if it had never been the means of seating one Ministry and unseating another. So much for appropriation—the chapter of appropriation, its origin, history, flourishing, decline, and fall—its use, how it has been taken up, how used for the purpose of unsettling one government and settling another, and how, in the fulness of time, having answered every good purpose, it has been gently laid aside, and put to rest with a single requiem sung over its grave, not even in one sentence of the noble Viscount's address, but in one or two words, namely—and this is what is meant as a tribute over the grave of the late appropriation, that useful and excellent friend—that the present measure, excluding the late appropriation "is as good a measure as, everything being taken into account, we can now hope to pass." To have passed over so dear and valued a treasure, to have paid it less honour would have been the grossest ingratitude—ingratitude worse than the witchcraft, and that worst species of witchcraft, which gave rise to the transformation of the bill we have now witnessed, but surely it was unnatural and unkind in the noble Viscount to a deceased and valued friend to have dismissed it unceremoniously. To have said less upon such a subject—to have paid a slighter tribute to the vast services of this extremely important and valuable assistant *dum fuit*, to have said less in its praise, was absolutely impossible for even the most concise of all the orators who ever uttered a funeral oration in the city of Lacedemon. Now, my Lords, it is on these two grounds of what is in the bill for the first time, and what is now for the first time left out, that I take my stand, and give my serious and solemn protest against the course about to be pursued by her Majesty's Ministers. That it may be lawful, that it may be consistent with the most perfect and scrupulous regard to the rights of conscience, and the great interests of religious liberty—and that it may be also consistent with the most perfectly sound administration of the principles of the civil laws of the realm, as regards its duties and obligations to all parties, for the Government to interpose in difficult circumstances with a temporary loan, and an advance of money to parties, whom it is the policy of the State to protect, and who, from accidental circumstances, or under the pressure of immediate ones, from the non-performance of the debts, the duties, or the obligations of others, are compelled to resort to it, is a proposition which I am perfectly ready to admit as true. It is one which all Governments have in difficult circumstances acted upon, whether it be the clergy now, or the laity at a different time—whether it be mercantile men in one state of distress, or the agricultural interest at another period of public suffering, or the Colonial interests at a third period, in each, and all of those cases temporary advances have been made by way of loan from the public funds, to relieve the necessities of private individuals; the church, in this case, being in one sense a public body, but for the purposes of the present argument, I view it in the capacity of a private individual — in that of tithe-owners, as contra-distinguished from tithe-payers—in that of creditors, as contra-distinguished from debtors. No principle of religious liberty, or perfect toleration could ever be said from any act of temporary accommodation, or mere succour, to have been infringed. So long as the Church was to be protected at all—so long as the State took upon itself the task of providing a remedy for the violation of rights, no one could deny, that this act, which was indeed further recommended to all parties, and most of all, to those parties, whose consciences were most tender, by the amiable name, and pleasing character of a charitable measure, was a measure not inconsistent with justice, and sanctioned by sound policy. Therefore, I will say, that I never met any persons, either those who were against all religious establishments, or those who, not being for the voluntary principle, were still against any further endowments of the Church, other than that derived from tithes, and Church-lands which had been already given to the Church—I never heard from any of these quarters, objection taken to the principle of a temporary advance of money. But, my Lords, it is indeed otherwise with gifts out-and-out, and not to be repaid. These gifts I maintain, are exceptionable on every ground. The Church is endowed with lands and with tithes; and no man, be his creed what it may, be his dissent as wide as you please from the Church in doctrine, and be his disapproval of the ordinances of the Church as wide, and his practice as different as you please, can have any right whatever to disapprove of a loan. But he has a right to disapprove—he has a duty to disapprove—not of the loan made in the first instance—not of tithes in their regular course—not of Church-lands in the ordinary case, and for why? Because these properties never were in him—he never had more than nine-tenths of his freehold, the remaining tenth belonging to the Church; and as for Church-lands, they never were his at all; but he has a right to disapprove of gifts, and therefore, although I am one of those who hold that all Church-property—tithes in England, tiends in Scotland, and Church-lands in England and Ireland, are all properly speaking, public property; and may be dealt with by the country and the Legislature for national purposes, if the wisdom of Parliament so think fit—for purposes immediately connected with the Church, if the wisdom of Parliament so think fit; or for purposes not immediately connected with the Church, because the State having its faith inseparably bound up, and connected with the Church, nothing which the wisdom of Parliament can do for the appropriation of its property, either to temporal or secular purposes, can at all be said to be alien to the interests of that Church; yet I have no hesitation in acknowledging the rights of the Church to receive such temporary advances as it may require upon its own property. If a national establishment be held in the opinion of the country to be fit for the people, and beneficial to them, the support of that establishment may be said to be immediately and directly the interest of the State itself; but I take it, nevertheless, that there is a broad and deep line to be drawn between that Church-property, the tithes, and the Church-lands, hitherto wholly enjoyed by the Church in severalty, and never enjoyed by any other party, and money raised by taxes off the people of this country, raised by way of loan, the interest upon which loan, the people in the shape of taxes must pay—and this difference is all and everything. You will observe, that no Dissenter, be he Quaker or Presbyterian, Baptist, or Unitarian, ever makes the slightest objection (except the Quaker), to the payment of tithes; but none of them ever make the slightest objection to the Church retaining for the present, and until the wisdom of Parliament shall otherwise decide, entirely and exclusively its property in the Church-lands. Is it the same with rates? Name but the subject of Church-rates, and every Dissenter, of every shade of religious opinion throughout the island, from one end to the other, is up in arms. The strongest Government that ever existed in this country, even in the most flourishing period of its power, when public affairs prospered most, and when private influence at home was most extensive, and kept pace with the prosperity abroad, the strongest Government has not the power in the times in which we live to levy from the people of this country the fraction of a farthing for the fabric of the Church by the increase of church-rates. The question is, can you with all the mechanism of the State, with all the influence of the Government, and with all the supreme power of Parliament, can you maintain church-rates on the footing on which they now rest? No man, be he the greatest zealot in politics or religion, or both, not intimately bound up with that unnatural alliance between Church and State, which must be stigmatized as having been productive of nothing but clerical corruption—no one of these zealots could maintain the physical possibility of raising one penny additional for the rates of the Church by force of any new law. No Act of Parliament sanctioning such gross oppression, cruelty, and injustice, can or will pass in the present day. Why is it cruel and unjust? Because those men are taxed on account of their religious scruples, their honest conscientious dissent, and they are compelled to pay twice when they should only pay once. They are compelled to pay to the support of your Church; and they choose to pay, under the influence of their conscientious opinions, for the support of their own, and they therefore pay a double tax, as a tax upon worshipping God according to their own consciences. Why, then, my Lords, what is this measure? What is the object of this bill? It is by a tax to take 900,000*l.* from the people of England to pay the Irish Church. That is the plain English of it. Now, my Lords, I have presented hundreds of petitions from Scotland, in which many parts of England sympathized against one farthing additional endowment to the Scotch Church. They say, "You—the Government, who were the authors of the appropriation clause; you—with all your professions of liberality and sound principle? you—who brought forward a plan for relieving Dissenters—can you think of giving additional endowment to the Church of Scotland, which must be paid by taxes to be levied on Dissenters from the Church?" Your answer to that—how will it be received? "Oh, no, we mean to do no such thing. There is a difference between the seceder and the member of the Church—not in doctrine, but in discipline—on a question of Church patronage alone—not upon conscientious scruples, or religious principle at all. The seceder differs from the Church, therefore God forbid that we, the patrons of Religious Liberty, that we, the authors of the appropriation clause—we, the proposers of the abolition of church-rates, on the grounds of Religious Liberty! God forbid, that we should use any such violence to your conscientious scruples, as to make you pay one farthing for a Church, in every one article of whose profession of faith you textually and entirely agree, and from which you are only separated by some slender, evanescent, and hardly tangible difference on political grounds." "But, do you mean to give any money to any other Church?" "Oh! to be sure," is the reply, "we mean to give—not 20,000*l.*, or 50,000*l.* as was asked and refused, for the Church of Scotland—no, but we, the advocates of civil and religious liberty—we, the great patrons of the Dissenters—we, who without the Dissenters could not exist as a Government for half an hour—we, who to repay them, brought in a measure so ill framed, that it could not pass either House—but which was founded on the principles of civil and religious liberty—we, to manifest the consistency between our professions and our conduct, we mean to give not 20,000*l.*, but 900,000*l.*—not to a Church from which the Scotch Dissenters differ only on points of discipline, but to a Church of bishops, priests, and deacons, which all good Presbyterians, and all Dissenters, regard as an utter abomination!" Well—well, my Lords, may this be looked upon as a violation of all principle—as a "heavy blow, and great discouragement"—to the hopes of the Dissenters. But, my Lords, is there nothing in the peculiarities of this case, which make it worse? Everything. I will not enter, my Lords, into the great question of religious establishments. I do not stand here upon the ground of what is called "the voluntary principle." My opinions are strongly in favour of a religious establishment. I think it is better for the teaching of religion. I think it stands upon safer grounds than the American experiment—for I can hardly call it a doctrine, it has not lasted long enough to have stood the test of experience, or the American plan, of letting every man choose his own religion, and having none to whom the Government lend its support. It is quite unimportant to me which way this argument is determined. My present proposition stands entirely apart from it. If I were the enemy of religious establishments—or if I carried my regard for religious establishments to the utmost extent—I should still hold precisely the same opinion on the present measure. Dr. Paley, and all those who have ever argued this question in favour of Church establishments, hold that such institutions ought to be in accordance with the opinions of the great majority of the people. I do not remember one argument in support of these establishments which would sanction anything so monstrous as a Church amply endowed, richly provided for at the expense of the whole community, which only ministers to the spiritual wants of a very small fraction of the people. I well remember a phrase used by one, not a foe to Church Establishments—I mean Mr. Burke—" Don't talk of its being a Church !—it is a wholesale robbery ! " My Lords, I should hesitate to use such language—it would be called everything noxious, and grating to your Lordships' ears, attuned as they are to more silvery tones on questions relating to Establishments. Yet this is the language of Mr. Burke who sometimes carried his advocacy of Church Establishments into the bounds of enthusiasm. My Lords, here is a Church supported by a people in number 8,000,000 of whom nearly 7,000,000 are Catholics, and upwards of 1,000,000 Protestant Dissenters. I say nothing of the endowment of the Church by tithes, which is—most wisely, I think—by this Bill to be converted into a rent-charge. But I say, that the principles of religious liberty are outraged by a Government who, while they will not allow it to be said, that 1*s.* is to be paid by the Seceder to the Scotch Church, bring forward a measure to which the Seceder, and all Dissenters will be compelled to pay 900,000*l.* to the Irish Church. My Lords, I object to the measure therefore as being at variance with all the principles of religious liberty. But I object to it upon another, and, though perhaps a lower, not an unimportant ground. I object to the Bill upon this principle, that it allows persons to escape the payment of tithes, which is a debt due from them, and because they will not pay it, the State is to step in and pay it for them. That is, persons refuse to obey the law, for the payment of tithe; and you, the Government, instead of lending, which would be the natural course—all facilities to the Church to obtain payment of its lawful dues, you interpose and tax those who have already paid their dues to relieve those who have refused to pay. That is the character of this bill; is it, my Lords, according to the principles of justice, or is it consistent with common sense ?—Certainly not ; it is contrary to every principle of justice, and a gross violation of common sense. Far different is it to the old doctrine of the English Common Law ; far otherwise were the old institutions of the country with which I have been acquainted from a child. According to those institutions, every man was made answerable for his own acts, and the defaulter was not allowed to go free ; parties were made to keep watch and ward over their neighbour, and in case he should escape them, the law brought him to justice ; but here the case is different ; by the present bill it is said, you have committed yourself ; you have been contumacious ; you have refused to pay the dues of the Church ; the Church was a creditor of yours ; you have not paid your debt, and therefore, we will make others who have discharged their lawful obligations, not those who have shown a refractory spirit, we will make them pay for you. Instead of your paying twenty shillings in the pound, you shall not pay one farthing, but we will make those pay who have not broken the law. Upon what principle of justice, or upon what principle of common sense, can such a measure, my Lords, be framed. My Lords, I look upon the gift of 900,000*l.* which is to be paid by the Dissenters to the Irish Church, as one which is made in violation of all the great rights of which men in the ordinary transactions of life are so justly jealous and tenacious. Is there anything, my Lords, in the situation of the Irish Church that makes it advisable that such a state of things should exist. I should think that every reasonable and sensible man would say no; and how those who wish to perpetuate such a state can bring their feelings to justify themselves upon it, I do not know. It is no argument with them that the appropriation clause might be dispensed with, because, if there should be a surplus, it might be but small, and might be long ere it arrived, come it soon or late, be it great or small, at all events it is a beginning; it is a principle asserted, it is a matter of principle, and we are here upon principle. We are, say the propounders of this measure, men of principle, and we would sooner die than give up our opinions upon civil and religious liberty, and our opinions, above all, upon the question of the Church. We would sooner die than give up this dear, cherished, and sacred principle—we would sooner suffer anything, except, indeed, to be shut out of official existence. Anything short of that species of suicide they were prepared to encounter and defy, sooner than give up that principle. How, then, is this matter of principle to be given up. In this House and the House of Commons, there may be a difference of principles. A few nights ago, on a question of great importance, one of the highest importance, as it affected the relation of this country with neutral powers, two noble Lords in the same Ministry, had differed most materially from each other, yet strange to say, they kept their opinions, and what was infinitely better, their places. So it may be here, my Lords; there may be the same adhesion to principles, though differing *toto cœlo*, and here may be also the same adhesion to office. Now, how has the principle been abandoned? I declare to you, my Lords, that I should have preferred anything rather than have given up the appropriation clause—I should have infinitely preferred the bill with that principle being rejected, rather than have the bill carried without the appropriation clause. The only thing said by the noble Viscount, in the few words he uttered upon the subject, was, that "in present circumstances, and situated as they were, it was all that they could do," it was carried in the House of Commons by some small majority—eight or fifteen—[*Great Laughter.*] Noble Lords on the other side of the House may laugh, but I firmly believe, if they had been in the Ministry, they would not have had a larger majority. The days are gone by, when you will see great majorities in the House of Commons; they have been put an end to—whether that be good or bad, I will not say—but great majorities have been put an end to by the Reform Bill. The Ministry have been obliged, in order to lighten their sinking bark—to throw the most valuable part of their cargo overboard—the appropriation clause. The present state of the measure is, in my opinion, very much like a certain animal which when hunted emasculated itself in order to escape its pursuers. The pursuers who were in chase of this bill, your Lordships, would not be satisfied with anything short of cutting out and emasculating this appropriation clause. The Ministry cut it out, and are now flinging it in the face of their pursuers. The object of the noble Lord in resorting to this operation—I mean to this measure—is to reduce it to such a woeful plight and such a pitiful condition, as to render it unworthy of being caught, and thereby enable it to escape, and prevent your Lordships from wreaking your vengeance upon it. Is not this most unnatural conduct on the part of the parents of this measure? I confess, my Lords, that it seems to me it would have been far more feeling that the measure should have suffered from the hands of your Lordships than from those of its unnatural and wretched parents. The inconsistency of those who introduced this measure, and then deprived it of its vitality, I never before saw exceeded or equalled. Now, my Lords, before I close the remarks I have to make, I must say, that I see nothing in the prospects of the Irish Church which would induce me to expend upon it the enormous sum of 900,000*l.* There is nothing in that Church that reconciles me to part with the money or the principle. I have upon former occasions stated my conviction, my painful conviction—I did so on the last stage of the Irish Poor-law Bill—that the Church of Ireland was so unnaturally circumstanced, so surrounded by pressure from without, that all the improvements you can bestow upon it will be fragile in comparison with that pressure. Such being the case, my Lords, it appears to me, that the Church of Ireland is incapable of lasting much longer without change, that change which the friends and advocates of the Church would say would lead to its destruction. It cannot be expected, that it will last in its present state many years longer. Does any body, or can any body, really suppose, that this *Magna Ecclesia,* I will not give it a harsher term, can be perpetuated much longer. That six millions of Catholics, and one million of Dissenters, will remain without an Establishment, while the whole of the wealth of the country is given to an Establishment of some 800,000 individuals. There is something, my Lords, in such a state of things that is shocking to think of, and inconsistent with common sense. [*Cheers.*] If the noble Lords who sat on this side of the House were on the other, instead of five or six, I should have had fifty or sixty cheers. I have heard it called by various names—one of them your Lordships have heard me use, only in a more decent disguise. I have, my Lords, heard it called an anomaly, and I say, that it is an anomaly of so gross a kind, that it outrages every principle of common sense; and every one endowed with common reason, must feel, that it is the most gross outrage to that common sense, as it is also of justice. Such an establishment, kept up for such a purpose, kept up by such means, and upheld by such a system, is a thing wholly peculiar to Ireland, and could be tolerated nowhere else. That such a system should go on in the nineteenth century—that such a thing should go on while all the arts are in a forward and onward course—while all the sciences are progressing—while all morals and religion too—for, my Lords, there never was more of religion and morality than is now presented in all parts of the country—that this gross abuse—the most outrageous of all—should be allowed to continue, is really astonishing. It cannot be upheld, unless the tide of knowledge should turn back—unless we return to the state in which things were a couple of centuries ago. There is a sophistry which was used by Mr. Burke—but it is impossible that any person possessed of reason or common sense but must see through it at once, nor do I think that that eloquent man believed in it himself—it is impossible that a man with his powers could. At the time of the Union the proportion of Catholics to Churchmen were as five to one; but Mr. Burke said, It is not the Church of Ireland, but the united churches of England and Ireland, and by that means he brought the proportion of churchmen to assume the relative proportion of three to one Catholic. Any one who could put faith in such an argument must have lost all sense of right and wrong. Why, Mr. Burke in using it must have forgot the position of the Bristol Channel; he must have forgot, that they were a different people, of a different country, of a different lineage, with different habits and prejudices—I will not call them "aliens," &c. I knew, that my noble and learned Friend had that word on his lips—but I, my Lords, never was one of those who cried out against my noble and learned Friend for the use of the words, for I always considered, that it was merely a very unfortunate expression. I understood it as it was afterwards explained by my noble and learned Friend; and it having been so explained away, we are bound to believe, that it was not used with any intention of insult. I, however, am now using it in favour of the Irish people, and not against them; therefore, I will go back to my position, as I may so use it. Why, my Lords, what a knowledge of geography those must possess who use such a monstrous argument—they must forget that the sea cut and divided the two countries—they must forget, that the Irish people have old feelings and associations different to the English people—they must not only forget, that their very blood and language were different, but they must also forget the habits of the Irish people which are broadly marked by the hand of nature, and more strongly still, by the monstrous nature of the civil polity under which they have been ruled for centuries. It is easy, then, but it is idle, for the people to talk of making one kingdom of the two countries so far as the Church is concerned, it is easy so to join them for the purpose of making the Catholics appear in a minority. The question is, what is the relative proportion of Catholicism and Protestantism in Ireland now. My Lords, it is as ten to one—there are now in Ireland ten dissenters to one churchman. The answer, as regards the Church, is decisive and triumphant. As regards the Church, the answer, then, is decisive. If you assume the proposition of Mr. Burke, then you must assume, that the Church of Ireland and the Church of England being the Establishment, is so for the whole of the people of England and Scotland, as well as the people of Ireland. What, my Lords, is the fact? Why, that in Ireland the Churchmen amounted to 800,000 out of a population of 8,000,000, and that is the fact, my Lords, which makes it the monstrous abuse which it is felt and declared to be. Therefore it is, my Lords, that I humbly stated my opinion a few days ago to be, that even the oldest Member of your Lordships' House may live to see a very great change in the endowment of the Irish Church Establishment, even if he might not live to see the end to its very existence. I have not a word to say respecting the endowment of a Catholic church. No Catholic church will be borne by the people of England or of Scotland, or even of Ireland. Make a stated stipendiary provision for the Catholic clergy, which would not only be borne, but would be hailed as the one real mode of solving the difficulties in which we are placed, as the only mode of restoring peace to that distracted country, and it would be at once easy and safe. I am the last man in the world to desire the establishment of the Catholic religion; I verily believe, that the Catholics themselves would spurn at it—they disavow such a wish, and I believe them to be sincere. Can that, however, be any additional reason for me to embark the million, as well as my principles, in so frail a bark, to help it to go down by lading it a little more, without the chance of saving it, and so perish in what I fully believe to be a political wreck? Surely, no. Yet, my Lords, strange, most strange to tell—at least, I have been informed, and I believe my information to be correct—strange, I say, to tell, that has been given as a reason for inducing us, the country, contrary to all economy, contrary to all principle, contrary to all the great principles of toleration and religious liberty, that has been given as a reason why we should embark the 900,000*l.* in a frail bark that is going down. That reason was given by a noble Lord, out of whose book I shall be happy to take a leaf, but I stand liable to the same curse as the German, who complained, that some other persons had said all the good things he intended to have said. In my place in Parliament, here, where I now stand, some fortnight or three weeks ago, I said the same things as regarded the Church of Ireland, but certainly, my Lords, I did not expect that I should so soon be confirmed, and that by a noble Lord who formed one of the cabinet of her Majesty's Ministers. I did not expect, that I should so soon hear from one of the Government that the Church of Ireland is doomed. I confess, that I was not sanguine enough to expect to hear such language deliberately, for I have been informed, that the noble Lord repeated the expression, after his attention had been strongly called to it, by an attack made upon him and the Government to which he belonged, for that expression—I say, my Lords, I was not sanguine enough to expect to hear from such authority, and so soon, that its days are numbered—that the bark is frail—that it is impossible that it can last any longer, or keep the sea, and that, therefore—mark that, my Lords, I could not myself so soon arrive at such a conclusion from the same premises—that, therefore, it is worth our while to embark a million of sterling money in it. This, my Lords, is not acting up to the old adage of "throwing good money after bad." No, it is throwing good money away—throwing it into a frail and sinking vessel, without the hope of the slightest benefit; and, in addition to the million, not content with that which might have been considered enough—not content with that—they are preparing also to throw in their principles, as well as to sacrifice in the same frail bark the whole principles of toleration. My Lords, by this step you disappoint the fervent hopes of seven millions in Ireland—you disappoint the expectations of four millions of Dissenters in this country; they have been fervent in their prayers for perfect equal liberty and exception from all taxes, which they cannot pay, conscientiously pay—you will deeply disappoint the hopes of those millions who regard their principles more than the pressure of the amount, and who would object on principle to the tax, were it only a farthing, because they feel that the principle is a violation of their consciences. Yet, my Lords, you are about to pass a bill, to close a Session in which you have done little or nothing else, which will damp their hopes, and they will, having lost all confidence in Parliament, look in vain for relief, and the Irish portion of them will no longer know where to turn. Do the Government hope, that they are recommending themselves to the country, or do they hope, that by this abandonment of their principles, they can solve the question which presses upon them, or can pacify Ireland? I recollect meeting in my reading a phrase which was used by Charles the First, which is most applicable to the present case. That monarch, in writing to his favourite, the Duke of Buckingham, said, "Ireland is the only egg we have been sitting on for some years, but the shell of it is so hard that we have not hatched anything yet." These are my sentiments, and they have always been the guide of my conduct. The affections of the people I will never court at the expense of their interest; their delusions, their passing delusions, I will never share, though, by thwarting their wishes, I may incur their displeasure. But their deliberate opinions, their well-considered principles, those judgments which they form, after long observation and much experience, we are bound to regard with profound respect; and I never will be deterred from supporting their sober and reasonable prayers, by any senseless apprehension of wild and urgent demands succeeding. Never fear the people. Believe me, the safest rule is—trust that you may be trusted. The more you confide in them, the more they will have confidence in you—the more you listen to their prayers, the less they will vex you with greedy encroachments and unreasonable demands. I now give you the result of all my observations all my experience—all my intercourse with them—I have never feared them—citizen, senator, statesman, minister, I never for an instant feared the people. Why should I now? Liberty and popular rights are mixed up with our whole Constitution. Oppression, exclusive monopoly, oligarchy any sacrifice of the many to the few, whether in State or in Church—is utterly alien to its whole nature. How often have we seen popular rights and liberal principles of Government almost prostrated and oppression and intolerance bearing an unnatural sway! Even then I never despaired of the good old cause—I never turned away from the cap of liberty, even when it hung upon a bush, or was nailed to the scaffold. Surely I will not now, when it should surmount the Crown—the Crown that was fabricated for its support and maintenance. I may stand alone, but I stand undismayed, I have honestly and fearlessly delivered my opinions, the opinions of my whole life, and upon which the public conduct of thirty years has been invariably framed. I stand among the ephemeral supporters of an ephemeral, though an enormous abuse. But the day is fast approaching, when their eyes will be unveiled, and my principles bear sway—when truth, because it is truth, will prevail—and right, because it is right, triumph; for the principles which I have declared are founded in eternal justice, and adopted by the understandings, and engraved upon the hearts, of twelve millions of the people.

Lord *Fitzgerald* and *Vesey* said, that he felt all the difficulty which he imposed upon himself in attempting to address their Lordships after the eloquent and elaborate oration of the noble and learned Lord who had just sat down. It was neither his intention nor his wish to follow that noble and learned Lord through the whole of the wide and varied course of argument which he had pursued. But while there were points of the noble and learned Lords' argument against which he was bound to protest, he thought it not unfitting, although it would place him in the singular position of defending the greater portion of the bill which had been introduced by her Majesty's Government, that he should shortly state the grounds which influenced himself and those noble Lords with whom he acted in recommending to their Lordships the adoption of this bill, and in the mean time he entreated their Lordships to approach this discussion in a spirit and a temper calculated to promote the settlement of this important question at issue. Before, however, he adverted to that view of the question, there were passages in the noble and learned Lord's speech so calculated to alarm the feelings, not of their Lordships alone, but the country at large, that he could not suffer them to pass without observation. The noble and learned Lord at the conclusion of his speech, had ridiculed the argument by which Mr. Pitt, had recommended the act of a Legislative union. He could only say, that if it had always been the noble and learned Lord's opinion, that the maintenance of the Church Establishment in Ireland was inconsistent with sound and honest legislation, why had the noble and learned Lord remained silent when, in 1829, the Catholic Relief Bill was recommended to the people of England as a measure calculated to promote peace and tranquillity, and to give security to that very Church Establishment in Ireland—security to that Church Establishment which the noble and learned Lord now in such unmeasured terms condemned? With a view to the fair discussion of the bill which was now before their Lordships — of a bill surrounded by special difficulties — it would have been more becoming in a citizen, a senator, and a statesman, and in one who had been a Minister of the Crown, to have treated this question in a different spirit, to have examined the provisions of the bill with more temper, and not to excite against the bill—not in that House, for the noble Lord had confessed, that he stood alone in their Lordships' House—but out of doors, the strongest feelings and most vehement passions which can actuate the minds of men, the religious prejudices, in short, of millions, as he himself declared, against the settlement of a measure which all parties and all sides were ready to make the greatest sacrifices to carry. He would now apply himself to the consideration of that noble and learned Lord's objections to the bill. His first objection was to the relinquishment of the claim on the public for that portion of the advanced million which had not been repaid. The noble Lord averred, that this single circumstance was sufficient to justify his opposition. But did the noble Lord remember, or was it necessary to remind him, that in two bills which had already received the assent of their Lordships House, as well as the support of that noble and learned Lord, a similar provision was imported, and that the noble and learned Lord had never once urged this objection? In 1835 he had given his assent to a bill sent up from the House of Commons remitting the whole sum, which, up to that time, had been paid to the titheowners in Ireland. And another bill of a tendency nearly similar had also passed through the House, without any remonstrance on the part of the noble and learned Lord. [Lord *Brougham*: I was not a party to that.] The noble and learned Lord was exercising the duties of a senator and a statesman, if not of a Minister of the Crown. He should, however, first wish to notice another point; that which was the ground with the noble and learned Lord for resisting the bill—namely, the omission of the clause for appropriating the surplus revenues of the Church to other than ecclesiastical purposes—might be a ground with him for resisting the measure; but he was happy, in thinking that, with the majority of their Lordships, formed one of its chief recommendations. The noble and learned Lord said, that he would consent to no other bill than one which contained the principle of appropriation. Might he be permitted to ask how it was, that the noble and learned Lord consented to the bill which was introduced by Lord Grey? How was it that those great and eternal principles on which he had dwelt with so much eloquence and force were then less valid and less powerful in his mind? It was not his intention to have adverted to this part of the subject; and had it not been from what had fallen from the noble and learned Lord, he should have said nothing which could by possibility be regarded as a taunt upon the noble Viscount, or partaking of the character of recrimination. But that subject had been introduced by the noble and learned Lord, and it was but due from those who had always opposed themselves to the mischievous tendency of an appropriation clause to say, that so far from thinking, that any blame ought to attach to the noble Viscount, he, on behalf of those individuals, congratulated their Lordships on the abandonment of a provision which would have stood in the way of any settlement, because he was convinced, that it never would have been borne by their Lordships, or by the Protestant people of England, that they should secure to the Church of Ireland a short-lived possession of their property, by adopting that principle of spoliation against which their Lordships had successfully protested. He thought that so far from this abandonment of the appropriation clause being a matter of sorrow, so far as those who had resisted it were concerned, or a matter of reproach, so far as related to those who had withdrawn it, their Lordships had reason to be happy in finding, that by their firmness and perseverance, aided as they had been by the press, by the public, and by public discussion, the principle maintained by the majority of their Lordships had received the support of Parliament. He must not omit to add, that after the patience and fortitude of the Protestant clergy, and the severe sufferings and dangers to which they had been subjected, he had had additional reasons for congratulating their Lordships upon this event. So much for the two points which stood in the front offending so far as the bill was characterised by the noble and learned Lord. He wished now to recall the attention of their Lordships to the subject as treated by the noble Viscount and to state to the House the reasons which operated with himself and those who were anxious to join the noble Viscount in endeavouring to effect a settlement in such a manner as would give it a chance of success. The noble Viscount in opening this subject to the House had adverted to the two principal points in the bill—namely, a relinquishment on the part of the public of 900,000*l.*, and the opening of compositions which had already taken place under acts of Parliament. Now, with respect to the remission of the million loan, he confessed that so far from desiring that the Church of Ireland should be dependent on the bounty of the public—so far was he and others from thinking that it was desirable for them, or that the bargain was made for their advantage—he must say, that this was a part of the bill to which he felt the greatest repugnance, and to which he gave his assent more reluctantly than any other. He could not overlook the fact that this remission was the purchase-money for the extinction of their legal rights, and this in his opinion was a most inadequate and disproportionate equivalent, if the word "equivalent" might be used in such a sense for the rights which the clergy were compelled by the bill to relinquish. It would have been much more satisfactory to him, and he believed to their Lordships, had this bill come up to that House leaving to those who had right of property to maintain an option of taking a rateable amount under the bill, or of enforcing by legal process their rights to property which was recoverable by the law of the land. He thought he understood the noble Viscount to say, that there would be 750,000*l.* available for this purpose.

Viscount *Melbourne*, 500,000*l.* might be thus applied, but 250,000*l.* of it has to be recovered from clergymen and lay impropriators.

Lord *Fitzgerald* and *Vesey*. The noble Viscount calculated upon recovering 250,000*l.* from the clergymen and lay impropriators. Now, in the first instance no such statement as this was made in another place, where this clause was vigorously contested, and where the principle of optional or compulsory payment was so much and so fully discussed. It was never said, upon any of those occasions, that a sum of 500,000*l.* might become available, including 250,000*l.* to be recovered from clergymen and lay impropriators. But the noble Viscount and his government might still regrant 100,000*l.* which was diverted from its original object to public works. So far as he had heard, he believed it would be found that the arrears, which were spread over four years, amounted to 600,000*l.* [Viscount *Melbourne* believed 500,000*l.*] Yes, 500,000*l.* for the last four years, and 100,000*l.* besides. He would state the difficulty, and he might almost say the compulsion, by which those had been acted on who desired to have the interest of the Church protected. They were quite aware of the injustice of this part of the measure, and indeed it was impossible to be satisfied with it. They were strongly desirous of the insertion of the optional clause to which he had alluded; but with the view of giving the best chance to the success of the measure, they desired to see the measure which the Government had introduced fairly tried, and they felt that to continue proceedings for the recovery of tithes, after tithe itself and composition for tithe had been abolished by the adoption of a landed rent-charge, would have interfered with the chances of the success of the measure itself. They were bound, notwithstanding their unwillingness to interfere, to make this concession with a view to the best interest not only of the Church but of the establishment, and not the interest of the present time only, but of the future. They were the more induced to consent to the extinction of these proceedings, as by continuing them they would be keeping alive animosity, religious discords, and religious conflicts, which exasperated the public mind in Ireland, and would diminish the prospects of success by which they hoped the measure would be attended. He might also say, that they were not so neglectful of the interests of the Irish Church as they themselves might at first sight have conceived themselves to be. It was obvious that a clergyman, however fully the right of property might be vested in him, would be prejudiced to a great extent in attempting the recovery of his tithes by the principle of an act which abolished such property for the future, and he would come into court without any strength in his claim, as it were, when Parliament had declared against the claim which he sought to enforce. He really thought upon consideration that the clergyman would obtain more under this act than he would recover if left to the process of law, Parliament having declared against the principle of tithes. He hoped, therefore, that the House would feel, and that the clergy of Ireland would feel, that no indifference had been exhibited with respect to their interests, because in this particular the bill was left as it came from the House of Commons. He might be permitted to say, that this course had had the sanction of those heads of the Irish church who were near enough to be consulted on this subject, and that they had felt the responsibility of rejecting this clause, or of obtaining the re-introduction of the amendment which had been proposed in the House of Commons at the hazard of endangering the bill itself. He came now to the subject of revising and re-opening the tithe compositions which had been made under the authority of former Acts of Parliament, which the noble Viscount had so strongly, or perhaps he should rather say so vaguely, recommended. It would be his duty, or at least he had undertaken, when this bill came to be committed, to propose in place of those clauses the insertion of the clauses relating to this part of the subject which formed part of former tithe bills. The noble Viscount had in very general terms indeed recommended that a power should be given for re-opening and revising the tithe composition under Mr. Goulburn's Act of 1821 and the Act of Lord Stanley. Those who had not read the bill or examined the clauses it contained would hardly believe the nature, the extent, and he might say, the oppression, of the clauses which the noble Viscount had recommended in terms so general and so vague. Their Lordships were, no doubt, aware that under the Act of 1821 all the compositions were voluntary. The tithe-owner and the tithe-payer were the contracting parties. In few instances, indeed, when compared with the great number of compositions under that Act, was it necessary to call for the arbitration for which the bill contained a provision, by the appointment of commissioners to settle and define the amount of composition. That Act gave, moreover, an appeal against the amount of composition. Now, when he stated to their Lordships, that the whole number of compositions under that Act had been 1,505, and that only thirty-nine appeals were lodged, they would perceive that there was a pretty general acquiescence in Ireland in the compositions made under Mr. Goulburn's Act. Of these thirty-nine appeals, fifteen were withdrawn as irregular and informal, and twenty-four went to trial. Of these twenty-four appeals, eighteen were heard before the Privy Council, and six were referred to the Judges of Assize. In three cases, and in three cases only, was the amount of composition reduced. Now, he would ask their Lordships, if there were not in the circumstances which he had read to them almost evidence from which there was no appeal as to the satisfaction which must have been felt in Ireland with the compositions made under this Act? But what the noble Viscount proposed to do was, not only to re-open the compositions made under Lord Stanley's Act, but to re-open the whole of these 1,505 compositions made under the Act of 1821-2, with respect to which, at the time they were concluded, there were in the whole only thirty-nine appeals. Now, he had here expressed in much better language than in any with which he could clothe his argument, a statement of the difficulties and injustice which the clauses now in the bill would work. He would read the passage which the noble Viscount, who had advocated the opening of compositions, would find well worthy his attention. He did not believe, that the noble Viscount would be willing, because a clamour existed against some compositions in Ireland, to work an injustice—he did not believe, that the noble Viscount would, because these clauses had been introduced in another place, in order, as it had been said, to make the bill go down, to enable those who supported them to tell the people of Ireland "It is true we have not extinguished tithes, but we have opened compacts (deliberately entered into) not for the sake, perhaps, of upsetting and destroying these compacts, but for reducing compositions." He did not believe, he repeated, that the noble Viscount would recommend these clauses to work out injustice under circumstances like these. This was the passage to which he (Lord Fitzgerald) alluded:—"When the clergy formed these compositions, they depended on the faith of the Legislature that they were to be final." And that general arrangement having been made, he marvelled much whether any interference with them would not partake of a far greater degree of injustice than any that would arise from a taxation of the people as elaborately stated by the noble and learned Lord opposite. The noble and learned

Lord had not, in speaking of injustice, at all adverted to the injustice of opening compositions made under faith of an Act of Parliament, and which both the contracting parties deemed to be final. But the passage proceeded—"When the revision of the compositions took place, not a few of the clergy were called upon to prove several particulars; and supposing that the settlement was final, every one of them might now have parted with the necessary papers and documents, might have since lost his proctor and collector, and not one of them be now prepared to make good the claim he had before proved and substantiated. Again, many of the incumbents had since the composition been changed, and the successors of those by whom the composition had been effected might not now possess one atom of evidence. There, again, might be many clergymen whose parishes were members now of unions, and had a separate composition, and received a separate revision. Now, under this bill, three barristers were to be appointed, with two guineas a day each, and on hearing before them a clergyman might be called upon to resist objections to tithes which had been raised twenty years before, and of which he had never heard until that day." Now, he must say, that considering the time which had elapsed, since the composition, the nature of the evidence necessary to establish the claims, the fleeting character of that evidence composed, as it was, of papers, receipts, and documents, of which it was not likely that any clergyman would preserve a trace—he should be glad to learn on what evidence these barristers were to proceed to an adjudication, especially in parishes where the incumbencies were held by individuals who knew nothing of the statement of accounts on which the compositions had been founded; many of the compositions, (those of 1821) were known to have been based upon average returns for the preceding seven years, and when it was remembered that many of the present incumbents were then not even in orders—many were at school, nay, some of whom might not then have been born, they were yet expected and called upon to prove the grounds and basis on which the compositions, which their predecessors had considered to be final were, founded. He was sure such a violation of justice had never before been proposed in any Act of Parliament, He begged pardon, it had twice before been brought up in Bills from the House of Commons, and twice had the House dealt with the proposition, as he trusted it would in the same spirit of justice deal with it, when the amendment on the clause which he should have the honour to propose was presented in Committee to their Lordships. Now the compositions under Lord Stanley's act, might certainly be considered of a different character from those under Mr. Goulburn's act. The Act of Lord Stanley had very different objects in view, it provided for the commutation of tithes, to composition by compulsory enactments, it provided an allowance of 15 per cent. to be given to Irish landlords on their undertaking to pay the tithes due from their tenantry. And it also provided, that all tenants at will should be discharged from the payment of tithes, and that in all leases that fell out, that charge should be fixed on the landlord, the tenant having power to deduct the tithe he paid on account of his landlord from his rent. Now he was far from admitting that this alteration of the law, which made compositions compulsory, would alone entitle Parliament to open compositions which took place under that tithe act, but still it was an element in the fairness of the transaction, and therefore it was, that he should propose in Committee the clauses which had been on two former occasions proposed in place of the clauses to which he had referred, as having before been expunged by their Lordships. Until the House got into Committee, he would not trouble the House by reading the clauses he meant to move as amendments, nor would he now enter into any further specific observations on the points opened by the noble Viscount opposite. He might, however, be permitted, (not in reply to the noble Viscount, but in reply to others, and in vindication of those who adopted the course which he intended to pursue, to state that there was one cause and source of regret to him and others, arising from an important omission from this Bill. It would be in their Lordships' recollection, that not only on the discussion of the proposition of the appropriation of the surplus revenues of the church of Ireland to other than church purposes, but on other occasions, both here and elsewhere, the most exaggerated representations had been made of the wealth of the Church of Ireland. Since he had himself been a

Member of Parliament, he had heard statements made on the subject of so exaggerated and outrageous a character, that the authors were now ashamed to come forward and avow them; and now, happily the legislature and the country had arrived at better and more accurate views of the revenues of the Irish Church, which formerly had been so grossly misrepresented. It would also be remembered that a commission, called one of public instruction, had been issued by the Ministers of the Crown, and that on the report of that commission a Bill was introduced, which professed to be for the settlement of the tithe question. That Bill provided for the suppression of about eight hundred benefices in Ireland, as not being called for by the state of their Protestant congregations. The cry was then raised that although the revenues of the Irish Church, were not, on the aggregate, so large, so monstrous, and so indefensible, as had been supposed, still that the distribution of those revenues was a grievance, which called for parliamentary interposition and reform. In another place, a noble Lord who had shown himself, by the measures he had introduced while in office, no inconsiderable church reformer, introduced a series of provisions for the more just distribution of the ecclesiastical revenues amongst those who performed the duties of the church, and it then appeared that the appropriation of the revenues did not overpay any of the incumbents. These amendments were rejected by the House of Commons. The noble and learned Lord opposite had expressed his regret that the appropriation of the revenues of the Church, to other than ecclesiastical purposes did not form part of this Bill; but he on the part of the Protestants of Ireland—of the members of that condemned and derided establishment—must express his regret that the reform heretofore proposed for a more just distribution of those revenues amongst the working clergy of the Church, was not to be found in this bill, as then they would have a better answer to give to the views expressed by those who exclaimed against the disproportionate establishment of the Irish Church. This reform was well deserving the attention of her Majesty's Government; and he much regretted it was not to be found in the Bill, and he trusted that it would not be forgotten that the objection to the reform did not come from his side of the House, or from the defenders of the rights of the Church, but had been repudiated by those who had been foremost to call for that reform. There had been many subjects introduced into the present discussion, which it would have been much better to have avoided, because there were many with whom he had the honour to act who were sincerely anxious for the settlement of this question; a settlement which this bill promised—he would not say ensured—if it was permitted to go forth without a re-excitement of angry jealousies and feelings. He was not called upon to vindicate the Church of Ireland, or the Church establishment, which had been called the united Church of Great Britain and Ireland, a name given to it by that compact in right of which alone the imperial Parliament could legislate for it—it was a Church the maintenance and preservation of which was secured by its union with the Church of England, and which formed the principal ground and basis of the legislative union. It might now be convenient to cast the enactment of that union to the winds; but let it not be forgotten that, though the two islands were separated by the seas—though these people were different in lineage, in language, and religion, still their interests were united and identical. Let those who agitated the question of the union remember that the compact with the Protestants of Ireland under that union was, that their Church should be maintained and preserved. If he were called upon to state the merits of the ministers of that much calumniated Church, and what were their recommendations to support and favour, he should take a ground hardly less sacred or interesting than that afforded by the terms of the Legislative union, and by the pledge Parliament had given, and the oath the sovereign had lately taken to maintain and preserve the Church. In addition to these, he would refer to the conduct of ministers of that Church during their days of persecution, and he would maintain, that nothing was to be found in the history of this or any other country at all to compare to the patient endurance of the persecuted clergy of Ireland. Neither ought to be forgotten the conduct of those who regarded that body of men as the ministers of the faith they professed in reference to the manner in which those ministers and their Church had been assailed. That

Church and those ministers required not his humble advocacy or feeble defence—they had the higher probation of purity and truth—they found favour in a higher source than even Parliament; and he would not believe, despite the prophecy of the noble Lord, that the Church was doomed to perish so soon or so unworthily. They had been told that the clergy of Ireland ought to have enforced their rights by law. Good God! was it in this House, was it before a British Parliament, where the facts were well known, when all were aware that when the clergy had attempted to vindicate their rights, they had been met in the armed field and had been made responsible for the blood of the aggressors, that such an argument was to be raised? Was this to be urged against them, when they did not get even the reluctant aid of a reluctant Government to assist them in enforcing their rights, and when Lord Althorp himself had stated the law could not be enforced by the Government? He trusted this bill, stripped of its obnoxious provisions, would (as he believed it would) be allowed to pass. He would not embarrass the question, sufficiently difficult in itself, with exasperating topics, and thus take away the chance of a settlement. But whether it passed or not, he believed, that both in this country and in Ireland, there existed a sufficient attachment to the reformed faith to preserve it inviolate, bearing in mind that it was connected with that disclosure of religious truth which had not only conduced to the advancement of civil freedom, but had extended and preserved it.

Lord *Brougham* in explanation, denied that he had imputed any blame to the Irish clergy for not enforcing the claim by law. He had said, however, that if the law had been found insufficient, Parliament ought to have been called upon to strengthen it, but from the beginning to the end of his speech he defied the greatest ingenuity to convert any thing he had said, into an expression of blame upon the Irish clergy. It was said, that he had supported the bill of 1835. He never took the slightest part in it; he never opened his mouth on it except once, and that was just before the question was going to be put, and after the debate was over. He then said, "My Lords, it is just as well that you should know what you are about, and act with your eyes open; if you do so and so the consequence will be, that on such a day, the 1st of August he believed, a process of Exchequer will be issued against the clergy, for the recovery of the money advanced." His argument that night had been not against converting the loan into a gift. It was said that when he was in office in 1833 he was inconsistent, because he did not then insist on an appropriation clause. His present argument was, not why was there no appropriation clause now, but why was the appropriation clause which was in the bill in 1835 not in this bill? No doubt he approved of the bill of 1835; but if asked why did he not put it in the bill of 1833, he replied, that bill had nothing to do with the subject, it was a bill for reducing the hierarchy in Ireland; it was for cutting off ten Bishops.

Lord *Fitzgerald* and *Vesey*. There was another bill.

Lord *Brougham*. Yes, there was another bill. But my objection was, that having put an appropriation clause into the bill of 1835, that clause should not now be abandoned.

The Earl of *Wicklow* said it was rather unfortunate, that the speeches of the noble and learned Lord always required so much explanation after they were finished, that a much longer speech was necessary to explain them. Had it not been for the interruptions which occurred he should have already told their Lordships that he was as anxious as his noble Friend that nothing should take place on this occasion to embarrass the measure, and to see it carried into effect as a remedy for the evils it was intended to cure. But when his noble Friend for the purpose of avoiding embarrassment thought it advisable to refrain from alluding to the circumstances of the last few years, he must say, that he could not consistently with his sense of the duty he owed the country in which he resided, pass over, as his noble Friend had done, certainly with a most kind and benevolent intention, those circumstances to which allusion had been made by the noble and learned Lord opposite, and which were materially connected with this question. He must express his deep surprise that the noble Viscount in opening the question had entirely passed over those circumstances, and had thought it unnecessary for him as a Minister of the Crown to explain why this bill was now in its present shape before their Lordships. Might he not well ask how it happened that they were now called on, in 1838, to discuss a measure which might have passed in any year since the present Ministers came into office? That being the case was he not justified in asking, why had the country been allowed to suffer all the evils through which it had passed, and why the law had been violated, and blood shed, and the Church of the country placed in jeopardy? Why was the bill introduced by Sir Robert Peel in 1835, and by Lord Stanley in 1836, censured and rejected? It was incumbent on the noble Viscount to have apologised, and to have accounted for his conduct on the principles of justice and propriety if he could. When he looked to the course which had been pursued by her Majesty's Ministers, he endeavoured to discover what excuse a Minister of the Crown could offer for that course. But one excuse had suggested itself, and it was this:—What he expected from the noble Viscount was, that he would say, that it was true that in former Sessions he had advocated the principle of appropriation—true, he and his Government had determined that a portion of the Church revenues should be applied to secular purposes, and that they had resolved to maintain their position, but latterly, finding that even at his own council board, and in his own cabinet, revolutionary principles were afloat, that noble Lords, and members of his cabinet, not satisfied with advocating the destruction of the Protestant Church, and the establishment of the Popish Church in the cabinet, openly avowed those principles in their places in Parliament, and not wishing, though he gave the Church this heavy blow, to have it entirely destroyed, he had now resolved to do something to rescue it from destruction. He had expected, that the noble Viscount would honestly and candidly confess, that he had abandoned the appropriation principle for the purpose of saving the remnant of the Church. But the noble Viscount had assigned no reason whatsoever for what appeared, at first sight, to be the most total abandonment of principle that ever discredited any administration. But he must say, that after attending Parliament some years, and observing the proceedings of Ministers for some time, there was no proof whatever of their inconsistency. Her Majesty's Ministers now were, and always had been, consistent. He believed they had but one object in view, the great polar star of their conduct was this—their continuance in office. When they saw a revolutionary spirit abroad, a desire to pull down the Church, and to set that House at defiance, and to bring it into contempt, believing that such principles would render them popular, they favoured them. But a change had now come over them, an election had taken place, and had shown them that the people of England were not that reckless people which they thought them, and that when excitement had subsided, they soon returned to sound constitutional views and, therefore, the Ministers now saw that, in order to keep in office still, their course must be one of a Conservative character. He remembered the remarkable language which had been used by the noble Lord on this very subject—"Let the representatives of the people be firm to their own views," said he, "let them determine to stand by their own sound opinions, the House of Lords can never stand against them, the House of Lords must succumb, it may be a year more or a year less, but eventually the measures supported by the people must be carried in spite of the House of Lords." What did the noble Viscount say now? He seemed still to maintain the same opinions, but he thought the most prudent course to pursue was that he now proposed. "Because there is no chance hereafter," said the noble Viscount, "of getting the House of Lords to acquiesce in our views, we must take what the Lords will give us—we must throw to the winds all the declarations we have made, and those which have been embodied in resolutions in the House of Commons—those declarations through which we climbed to power, and unjustly hurled others from it." Having gone thus far, the noble Lord then came down to Parliament, and expressed his desire to desist from all topics of an angry and debateable character. All that might be very convenient for the noble Viscount, but he must say, that such a course would redound to his eternal disgrace, and there would be no page so black in the history of the politics of this country which would afford the reader so much matter for contempt and censure, and no doubt some Hallam or some Hume would hand down to posterity the complete history of the whole affair, for its warning and its wonder. He spoke warmly on this subject, but it could not be said, that he had been a sufferer by the change in the administration. It was a matter of perfect indifference to him who were Ministers, if he saw good Government caried on. But most assuredly when he saw such conduct as this, he must be anxious like others to see the Government placed in more worthy hands. With respect to the measure itself it was in the main principle the same as majorities of that House had always been ready to adopt, but there were parts of it founded on the rankest injustice. It was unjust towards the landlords, to the tithe-payers, and to the clergy. To the landlords it said, "You, who have taken on yourselves the burden of the tithes for the sake of peace, and rendered yourselves subject to this impost with a desire to promote the tranquillity of your districts and your estates, you shall gain nothing, you shall be sufferers; you shall pay all." To the tenantry it said, "You who have been honest men and obeyed the law—you who have paid the tithes, you shall remain as you are." But to those who had resisted the law even to the knife—who had associated together for the avowed purpose of opposing it by every means in their power—to them it said, "You shall keep your money in your pockets." Again, to the clergy it said, "You who have been meek and humble, who have acted in the spirit of patience, and suffered every thing rather than create discord and strife, you shall have *5s.* in the pound. But to you who displayed a manly character, and braved all the dangers of enforcing your just rights, and insisting on payment, you shall obtain the same advantage, and whatever little arrears remain, you shall get them with those who have received nothing before." Now, was it possible to conceive a bill founded in more rank injustice? Still they were desired to submit to it. Was it not a degradation to the House, to the Parliament, to the country, and to her Majesty, in the first year of her ascension to the throne, that principles like those contained in this bill should be forced upon the House? Had the Government done its duty at first, the confusion and mischief that had taken place would have been prevented. True it had been stated on authority, that tithes were always odious to the people; but did it happen that such results had never been produced by them till the present Ministers were in office? The million grant was said to be for the relief of the clergy; but it was no such thing; it was taken from the public purse to save Lord Althorp from the embarrassed position in which he placed himself by a most unstatesmanlike declaration which he made in his place, that tithes should cease on a certain day—a declaration he was entirely unable to fulfil. His noble Friend who had last spoken, had expressed a hope that the measure under consideration would give general satisfaction, and be productive of tranquillity; and he had attentively listened to the speech of the noble Viscount opposite, in order that he might learn from the noble Viscount, whether he and the other Members of her Majesty's Government entertained any hope that such would be the results of the measure. But the noble Viscount had expressed no such hope; there was nothing in the speech of the noble Viscount which could lead any one to entertain the opinion that her Majesty's Government expected that tranquillity would follow the passing of this measure, or that it would give general satisfaction to the people of Ireland. On former occasions, the Government had expressed their opinions, that no measure relating to tithe could be satisfactory which did not contain the principle of appropriation, and that opinion had been embodied in resolutions setting forth, that there could be no final settlement of this important question which was not based upon that principle. But that principle was entirely abandoned in the present measure; and he was anxious to learn from the noble Viscount, what were the opinions of her Majesty's Government as to the final results of the bill now under consideration. Did they think, that it would be productive of tranquillity, and that it would give general satisfaction to the people? The noble Viscount had not expressed a hope, that it would do so; but he trusted he would yet inform their Lordships what opinion the Government entertained as to the results of the measure under consideration. He confessed, he was astonished, that the other House of Parliament, which was generally so parsimonious, and many of the Members of which were so anxious about candle-ends, had allowed this measure to pass, and a large sum of money to be taken for the purposes contemplated in the bill, when the Government was afraid to say, that it would have the effect of restoring tranquillity to Ireland, and when the measure was not held out as a final and satisfactory settlement of the tithe question. But let him remind their Lordships what had been said by an authority on this subject, who, although he was not inclined to put a high value on all his opinions, yet was, on a point of this nature, certainly entitled to consideration. He alluded to Mr. O'Connell. That Gentleman, on the third reading of the bill now before their Lordships, said, that "he now announced to the great supporters of the Protestant Establishment in Ireland, that they never aimed so destructive a blow at the temporalities of that Church as by assenting to this bill. Let them look at the meetings which were taking place, tumultuous because so large, throughout Ireland on this subject."—Again, "many Protestants of great property and station in the country were coming forward to join in the agitation of the question; and if the battle was now to be between the landlord and tenant, a worse class of Whiteboyism would arise than they had ever yet heard of in Ireland." That was the declared opinion of one who was now a friend and supporter of the Government, and who, he believed, had also supported this bill. It was openly declared, that if the bill passed, and that if the battle was to be between landlord and tenant, a system of Whiteboyism would arise such as they had never seen in Ireland. Such was to be the result of this measure, in the opinion of no mean authority on the subject, provided the landlord was made the responsible party; and such was the effect of the bill. On a former occasion, he had pointed out how this measure might be adapted to the circumstances of Ireland; and his opinion was, that the burthen should not be entirely thrown on the landlord. He approved fully of the protection given to the clergy, but he could not approve of throwing the whole burthen and responsibility on the landlords without some precautionary measures in their favour being at the same time adopted. That warfare would now be between the parishioners and the landlords; and he much feared, that tranquillity would not be the result of such a state of things. It had been stated, that the bill gave a bonus of twenty-five per cent., to be put into the pockets of the landlords; but that was not true; for the deduction, and very properly, went to the occupying tenant. He did not know on what grounds the calculations of the noble Viscount were made, but he could not help regretting, that they had not the power of making some alterations in regard to the Million Act. He could not conceive anything more monstrous, than that compositions for tithe, of many years' standing, and which had been voluntarily entered into, should now, in 1838, be re-opened, and, as far as he could see, solely for the purpose of gratifying those who were anxious to disturb all the institutions of the country. He trusted, their Lordships would not consent to any part of this measure which gave the power of re-opening those compositions, as such a course would be highly impolitic and unjust. He trusted, the bill would be productive of some beneficial effects, but he much feared that it would not give satisfaction, and that it would not be considered a final settlement of the question, and that it would not give peace and tranquillity to Ireland. On these points he was anxious to hear the opinions of her Majesty's Government; and he trusted the noble Viscount would inform their Lordships, whether they might expect this measure to prove final and satisfactory. He should be sorry if any of the observations he had made, should have the effect of keeping up the agitation which existed, and he begged to disclaim the idea that it was his wish to obstruct the progress of the present measure; but he considered he had only done his duty in bringing before their Lordships and the country, the true view of this measure, and of the conduct of her Majesty's Government in reference to this important subject.

The Bishop of *Derry* said, that he was not in the practice of trespassing often on the time of their Lordships, but the subject under consideration was one on which he could not remain altogether silent. He had long believed that a measure of this nature was essentially necessary, in order to restore peace and tranquillity to Ireland, and that opinion he had formed independently of considerations of the benefits which the clergy were likely to derive from it. It was because he held that opinion, that he urged their Lordships to pass the bill now before them, and that he had in 1834 urged them to permit the second reading of the bill which had been introduced by Lord Grey. On the former occasion, to which he had alluded, he had felt much regret at what had occurred, and for this reason—namely, that if the bill had passed, those calamities and tragedies which they had witnessed in Ireland would never have occurred. His noble and learned Friend (Lord Brougham) said, what terrible people those Dissenters were who held bishops in abomination, but the Dissenters in his diocese were as exemplary as any other people. The churches in that diocese were every Sunday filled with Presbyterians, and the reason was, because the clergy, highly to their credit, avoided touching upon doctrines which could irritate their feelings. Under the whole circumstances, he implored their Lordships to pass this bill for the sake of peace and tranquillity, and in order that the clergy might no longer be exposed to those miseries from which the liberality of this country had, in a great measure, relieved them. He regretted that there should have been so much of feeling displayed in the debate, and he had always thought that it was highly desirable that discussions in that House should be conducted with temper and calmness. He had heard with much sorrow some comments which, on a late occasion, had been made upon the most rev. Prelate. For that most rev. Prelate he had the most profound respect, and the most sincere veneration for his humility. His opinions were at all times expressed with the utmost calmness, while he was always actuated by the most sincere anxiety for the welfare of the Church, and he could not but regret the observations which he had heard in regard to the conduct of the most rev. Prelate on a late occasion.

The Earl of *Mansfield* was willing to make great concessions for the sake of securing peace and tranquillity to Ireland; but while he was willing to make great sacrifices of his own opinions and of his own views, he would not consent to make any sacrifice of principle. In making concessions they might be liberal in sacrificing their own feelings or property, but when they came to make concessions out of the property of others, they would not be justified in dealing so liberally with it. In considering this question, he should point out the difficulties with which it was surrounded, he should show where the measure was unjust, and he should also endeavour to ascertain what was its ultimate chance of success. He feared that this measure would not be productive of a durable peace, and that it would only lead to a hollow truce. He thought the noble Viscount opposite did not anticipate from the bill complete success, and he had said that it would only make a difference, and that the dissatisfaction in regard to tithe would not be entirely removed. He objected to the injustice of the measure, because by the 7th clause a very great deduction was to be made from the incomes of the clergy. He could not conceive that such deductions were in accordance with the principles of reason and justice, and he thought 10 per cent. for the security of collection a sufficient deduction, while that amount was a sacrifice which he was certain the clergy would not object to make. It ought to be recollected that already the collection of tithe was much easier than it had formerly been, and that under Lord Stanley's act, that collection had been rendered much less expensive. With respect to tithe, he had ever been of opinion, that it was a most improper impost, as nothing could tend more to obstruct agricultural improvement. However, the clergy had agreed to the deductions with, perhaps, a wise liberality as concerned themselves, but he feared with questionable justice as respected their successors. In assenting to it, however, they had fully justified the eulogium which the noble Lord had passed upon them, and therefore, though reluctantly, he should consent to this part of the measure, because the clergy themselves had consented to it. With respect to the arrears, without entering into any calculation on the subject, he thought, by the plan proposed, the clergy would sustain a considerable loss—in his opinion about 30 per cent. In his opinion it would have been better to have estimated the amount of arrears,—to have paid that amount to the clergy out of some fund devoted to that particular purpose, and then thrown the collection of arrears upon the Government. In making that proposal, however, he would have provided that the power vested in the Government for the collection of those arrears should have only been exerted in cases of contumacy, and never when the parties were really unable to pay. There was, however, another point to be taken into consideration, for the people of Great Britain were called upon to pay for this arrangement, and they might be certain that they would inquire why they were called upon to do so, when they had a Government to execute the laws, and to see equal justice administered to all men. For his own part, however, as a native of

Great Britain, he was willing to make the sacrifice, and to pay even a larger sum, if by so doing he could secure peace and tranquillity to Ireland. What was the great inducement to the clergy to give their consent to this measure? It was the hope that it would give tranquillity to Ireland. He believed that was the sole object which they had in view, but he very much doubted whether such a result would proceed from the measure before their Lordships. The portion of the speech of a Member of the other House of Parliament which had been read by his noble Friend, had made a deep impression on his mind that success would not attend the measure, and he was still more convinced, that the measure would not restore tranquillity to Ireland, from reading a public letter which had lately been written by the same individual to the people of Ireland. In that letter, it was stated, that the anomaly of a church, providing only for the spiritual wants of one in ten of the population, would still continue to exist, and the influence of that individual in Ireland was universally acknowledged. He feared, the landlords would find, that even the Protestant tenants would refuse to pay any portion of the tithe, and in regard to the Catholics, he was afraid, that agitation would still be continued, and that they would be persuaded, that they could not pay any portion of tithe, however small, or in whatever shape, without an abandonment of principle. But if the proposed concession did not produce that satisfaction in Ireland which was expected from it, what was to follow? The noble Viscount at the head of the Government had, the other night, clearly and forcibly stated the maxim, that when Parliament was called on to effect any great object by concession, it ought not to be niggardly in its concession, and thereby leave the germ of future discontent. He believed, that when the noble Lord uttered that maxim, there was no one who did not admit its truth; but in the application of the maxim, there appeared to be a great difference of opinion between the noble Viscount and the majority of their Lordships. The noble Viscount had frequently in that House, declared his intention of supporting the Protestant religion, and establishment; but he must say, that some of the noble Viscount's methods of showing that intention, were not very satisfactory; and he, for one, never could admire the noble Viscount's conduct — when the Church was oppressed by its enemies, and but little protected by those who ought to have been its supporters—viz., the Government —he could not admire the noble Viscount's homœpathetic remedy of applying to the Church a very great discouragement, a species of remedy which caused a great aggravation of the disease, with the expectation of a complete ultimate cure. In the course of the debate, certain differences in the Government had been adverted to, and the opinion of the noble Lord, the Secretary-at-War, had come to their Lordships' knowledge, through the usual channels of communication. That noble Lord's opinion was, that the present measure could not effect a final settlement—that it was impossible, that the Roman Catholics of Ireland should be satisfied with it; and that noble Lord coupled himself with those Roman Catholics, adopted their sentiments, and said that it was impossible, that the present Protestant establishment in Ireland could be maintained. He was not disposed to cavil at the opinion expressed by the noble Lord; and, indeed, in one part of that opinion, he had concurred. He had taken the liberty, when the Roman Catholic Relief Bill passed, of stating in his place, in their Lordships' House his opinion, that it would be difficult, upon the grounds on which that bill was passed, if not impossible, to support the religion of the minority as the established religion of the state in Ireland. He should ever believe, that there were some who participated in that opinion, but who were too prudent to express it, since, coming from them, the supporters of the bill, it might have had a great effect on others, who only gave a tardy and reluctant assent to the measure. His apprehensions were, as their Lordships' knew, treated as visionary, and their Lordships came to the determination, that the religion of England in Ireland, should be the established religion of the State, a determination which they had, on more than one occasion, repeated; and he would take the liberty of saying, that whatever his apprehensions, with regard to the safety of the Church in Ireland were, he had never joined in any measure which was likely to make his prediction realized. However, it was useless for their Lordships to determine, that the

Protestant religion in Ireland should continue to be the established religion, unless by the line of policy they prescribed to Ministers, they forced them to adopt a course which was consistent with that determination. It was for this reason, that he made a reference to the opinion expressed by the noble Lord, the Secretary-at-War; and he put it to their Lordships, whether it would not be satisfactory to hear from the noble Viscount at the head of the Government, in his own name, and in the name of his colleagues, whether he differed from, or participated in the opinions of the noble Lord, the Secretary-at-War. He meant no disrespect to that noble Lord, when he said, that he was not, perhaps, so important a member of the Cabinet, with respect to the present question, as other members, who were more immediately connected with the Government of Ireland; and he, therefore, thought, that something was wanted to neutralize the complimentary letter written by the Secretary of Ireland to the chairman of an anti-tithe meeting in that country, which, though not approving of the resolutions, yet, being highly complimentary towards the chairman, did, in his (Lord Mansfield's) opinion, give a Government stamp to those resolutions, and augmented their value in currency. He therefore asked, whether it would not be satisfactory to hear what the opinions of the Government were on the point to which he had alluded. It was true that the appropriation principle had been withdrawn, but it was his belief that the object was not abandoned; and if the bill was not calculated to give peace to Ireland; and to appease religious dissensions in that country, would it not be a mockery to call on the clergy to make all those sacrifices which had been demanded of them? He trusted he should elicit from the noble Viscount opposite the declaration of his resolution to support the Protestant Establishment in Ireland, but he did not think that the Protestant Establishment could be supported if the Church in Ireland was to be mutilated for the gratification, or taxed for the support, of its inveterate enemies.

The Marquess of *Lansdowne* said, that if their Lordships were resolved to pass no measure which was not in all its parts in accordance with the principles of strict justice, they must make up their minds to admit of no remedy to the great evil to mitigate which the present bill was proposed; and it was from many years' experience of the impossibility of introducing such a measure with the chance of success that he was induced to approach the present discussion with a determination to make a sacrifice, not merely of personal vanity or assumed consistency, but of that which was more painful, a sacrifice of what was in itself strict justice to others, for the purpose of attaining that object which it was the first duty of Parliament and the Government to attain—the prosperity and tranquillity of Ireland, as connected with the safety of its institutions. Let it not be supposed that this observation was solely applicable to the present measure—it was equally applicable to every measure on the same subject which had been introduced, and which, if weighed in the strict scale of justice, it would be impossible for their Lordships to sanction. The question, therefore, resolved itself into this, whether the measure which their Lordships were now called on to adopt was not on the whole calculated, he would not say with certainty, but in all probability, to extinguish the evil, connected with the present tithe system in Ireland to which he had adverted. It was not his intention to follow the noble Earl opposite (the Earl of Wicklow) through all the topics of party irritation which he had introduced into the debate, and he should most willingly bear with the censure of the noble Earl, since he was convinced that by the passing of the present bill a great good would be effected both for this country and for Ireland. Considering the peculiar position which the Protestant Church in Ireland occupied it was not extraordinary that different plans for its preservation should have been proposed, but with none of those plans did the present measure conflict, which, indeed, was only inconsistent with what the noble and learned Lord who opposed the bill stated to be the necessity of the speedy downfall of the Irish Protestant Establishment. Undoubtedly with such a necessity the provisions of the bill were inconsistent, for the object of the measure was to preserve, he would not say to perpetuate (for that man would be bold indeed who spoke of the perpetuity of any institution in so peculiar a state), but to preserve and sustain the existence of the Church in Ireland This was therefore, a measure of sacrifice upon the part of all—of sacrifice upon the part of the clergy, of sacrifice upon the part of the landlord, and of sacrifice upon the part of Parliament, and all for the attainment of the common object in which they were all interested—the preservation of the peace and tranquillity of Ireland. With respect to the question which had been asked by the noble Earl opposite, whether the Government confidently entertained the hope that the passing of the measure would produce tranquility in Ireland, all that he (Lord Lansdowne) could say was, that the manifest tendency of the measure was to prevent the recurrence of those scenes of violence which demoralized the whole of the population, who resolved a question which ought to be one of peace and principle into a question of brute force, and that in a country consisting of 8,000,000 of people, 7,000,000 of these being directly opposed to the collection of that species of property. In his (Lord Lansdowne's) opinion, anything which rescued the Church of Ireland from a population so disposed towards it, and occasionally so incensed and exasperated against it, was an object which it was well worth their Lordships' while to endeavour to obtain, even at the risk of outstepping the strict limits of justice. Although he concurred in that which the wisdom of the other House of Parliament had adopted, and in which they exhibited unusual liberality—namely, the extinguishing of the tithe arrears by a large grant of money, still he would not concur in the expediency of it if it were to be regarded, as his noble and learned Friend (Lord Brougham) who sat below him was disposed to regard it, as an additional endowment to the Church of Ireland. It was, however, no such thing—it was merely the giving compensation for claims which it was for the interests of the country the clergy should forego. It was, in fact, not a payment to the church, but to the public peace. He confessed he was at a loss to understand the distinction which the noble and learned Lord had drawn in the present case between a loan and a gift, between the 650,000*l.*, the amount of the original loan, and the remaining 260,000*l.*, which was no new donation. A loan was a loan as long as payment of it was required by the lender, but the moment that payment was abandoned it became a gift. There was one point upon which he concurred with the noble and learned Lord, and that was the expediency under favourable circumstances of making some state provision for the Roman Catholic clergy in Ireland. That such a provision would be desirable, was his opinion, and he was not ashamed to avow it. It appeared to be something like inconsistency upon the part of the noble and learned Lord to advocate such a proposition, at the same time that he withheld his assent from the present bill; for they could only make a provision for the Roman Catholic clergy by taking Presbyterians and Dissenters in common with the rest of the people. That the noble Lord was willing to do, because he thought it would be productive of good. Now, the present measure did precisely the same for the support of the clergy of the Established Church, and yet the noble and learned Lord opposed it. There was really no difference between both propositions. For these reasons he trusted their Lordships would allow the bill to go into Committee.

Viscount *Melbourne* said, he collected from the general tone and tenour, and the course of the present debate, that there would be no serious impediments thrown in the way of the committal of the bill. So many serious animadversions had been cast upon him in the course of the debate, that he could not allow their Lordships to go into Committee upon the bill without offering a few observations. The speech in which he had the honour of introducing this question to their Lordships, had been characterized as insufficient and meagre, as an abortion, and exhibiting want of care; while the noble and learned Lord had severely remarked upon the bill, both for what it contained and what it did not contain. The absence from the bill of the appropriation clause appeared to affect the noble and learned Lord in the same way that the Roman historian described the people of Rome as being affected in the triumphal procession. They were more moved, says the historian, by seeing the places empty which the statues of Brutus and Cassius should have occupied, than they were by the presence of those of all the other worthies which were introduced in the procession. The noble and learned Lord said, that he had dealt unkindly with a friend which had served him in his hour of need, alluding to the appropriation clause. The noble and learned Lord also complained, that he had sung but a meagre dirge over the appropriation clause. Now, with respect to the appropriatiou clause, and its being absent from, and not appearing in the present bill, he (Lord Melbourne) could say, that he had abandoned no principle which he had ever entertained upon the subject—he still held to all the opinions which he formerly held upon the subject. He had renounced none of them, but he held himself justified in that he had acted with prudence in looking to the time for bringing forward such a measure. For a justification of this course, he would appeal to the highest authority in that House, he meant that of the noble Duke opposite, (the Duke of Wellington). That noble Duke stated, upon the occasion of the last debate upon the subject of municipal corporations, that he disapproved of corporations altogether; that he did not think, they worked well in England, and therefore he would not wish to see them extended to Ireland; but that, as so strong an opinion in their favour had been expressed in another House, and by persons for whose opinions he entertained a high respect, and as the people themselves appeared to wish for them, he would agree to the measure, although he could not approve of it, and still retained his own opinions upon the subject. That was the language of the noble Duke on the occasion referred to. That was the language of good sense, and of a wise man, and a statesman. The noble and learned Lord had alluded in terms, he would not say violent and abusive terms, but certainly in most unmeasured language, to the character and condition of the Established Church in Ireland. Now, he must say, that considering the nature of that Church—considering the manner of its introduction into Ireland, and the circumstances under which that country was planted, that nothing could be more unjust and unstatesmanlike than the strictures of the noble and learned Lord, who, in quoting Mr. Burke, did not overstate his merits when he described him as a very high authority. No doubt, he was a man of the greatest natural abilities, cultivated in a degree worthy of such gifts; but the noble and learned Lord should have, at the same time, remembered, that Mr. Burke was a man of violent, of intensely violent passions; that he was a man as unmeasured in his invectives, as he was profuse in panegyric, that he disregarded the moral maxim *ne quid nimis*—that such was the extreme recklessness, such the unequalled eccentricity of his conduct, that he often proved a most pernicious and dangerous guide. He was an unsafe guide when he lived, and now a most unsafe guide to follow when dead. Looking at the history of the English settlement in Ireland, every man must agree, that it was impossible for them to have done otherwise than they did in reference to the Irish Church. When Henry 8th denied the supremacy of the Pope in England, how could he have avoided doing the same in Ireland? He was aware, that of late, great attacks had been made upon Church Establishments. It was said, that the Established Church in Ireland was not the Church of the majority—that it was not the Church of the poor. He was not insensible to the force of these observations, and he thought, that the best course would be, to preserve the establishment, but so to reduce it, as to meet the exigencies of the time; he therefore had supported an appropriation clause, and on the same principle he had supported the Church Temporalities Act, and if the appropriation clause could have been carried with anything like credit for motives, he was not without hope, that advantageous results might be anticipated. Still he did not mean to deny the influence of present circumstances, and he thought, he might fairly give way to that influence, without any dereliction of principle. But, above all things, he wished to impress upon the minds of their Lordships, this—that they ought not to give up the positive advantages of the measure as it stood, merely because they could not hope to carry all that they thought desirable. He was far from saying, that the payment to be made under this bill, was not open to many objections, but let the House recollect, that it was a sacrifice for the sake of peace; that it would produce that effect he could not doubt; and, of course, he could not despair of the effects of a bill which he had himself brought forward.

The House resolved itself into a Committee, the Clauses 1 to 12 were agreed to.

On Clause 13,

Lord *Fitzgerald* and *Vesey* proposed, as an amendment, that Clauses 13 to 25 be omitted, and in lieu of these, he should propose two clauses which would give the same power of appeal respecting compositions, which was secured under Lord Stanley's Act, giving also the same time for appeal—namely, six weeks from the passing of the Act.

Lord *Brougham* opposed this change, saying that it would have the effect of preventing an immediate and decided settlement of the questions on which it might be brought to bear.

The Marquess of *Clanricarde* thought that such a change could not give satisfaction.

Their Lordships divided on the question that clause 13 stand part of the bill:—Content 38; Not Content 77: Majority 39.

List of the Contents.

DUKES.
Leinster
Norfolk
Argyll

MARQUESSES.
Lansdowne
Headfort
Clanricarde

EARLS.
Effingham
Fingall
Charlemont
Minto
Meath
Gosford
Thanet
Carlisle
Ilchester

VISCOUNTS.
Melbourne
Lismore
Falkland

BARONS.
Langdale
Montfort
Foley
Cottenham
Gardner
Holland
Glenelg
Poltimore
Howden
Carew
Vaux
Strafford
Hatherton
Plunkett
Wrottesley
Vernon
Seaford
Lilford

BISHOP.
Hereford

Paired off.

NOT CONTENTS.	CONTENTS.
Clare	De Mauley
Dorset	Uxbridge
Jersey	Albemarle
Beaufort	Tavistock
Verulam	Scarborough
Thomond	Camperdown
Wilchilsea	Lovelace
Bute	Sutherland
Reay	Methuen
Skelsmersdale	Sudeley
Aylesford	Ducie
Limerick	Mostyn
St. Vincent	Saye and Sele
Aylesbury	Somerset
Bp. of London	Conyngham
Exmouth	Craven
Tankerville	Brougham

Clause and the subsequent clauses to clause 25 inclusive struck out.

Remaining clauses of the bill agreed to—the House resumed.

Lord *Brougham* entered the following protest against the Bill.

Dissentient,

I. Because, beside many other grounds of objection, it is open to this, that it converts into a gift the large sum originally advanced as a loan to the Irish clergy, contrary to the faith upon which the country was induced to permit the advance, contrary to the true principles of equal religious liberty, and contrary to the spirit of our Constitution—compelling men to pay for a Church from which they conscientiously dissent, giving to the clergy of the small minority of the Irish people an indemnity for the loss of their appointed dues at the expene of the vast majority, and making those who have broken no law, and withheld no dues answerable for the conduct of such as have refused payment of what the law, be it a good or a bad law, still unrepealed, prescribed.

II. Because there is no adoption in this bill of the important principle of appropriation, but rather an abandonment of that principle, if not a disapproval of it in substance and effect,

(Signed)
Brougham.
Camperdown, for the First Reason.

* * *

HOUSE OF COMMONS,

Friday, August 3, 1838.

Minutes.] Bills. Read a third time:—Militia Ballot Suspension; Oaths Validity.

Petitions presented. By the Marquess of Granby, from Stamford, against the Parochial Assessment Bill.—By Mr. Gibson, from Chelmsford, and by Sir G. Grey, from Devonport, against Idolatrous Worship in India.—By Sir J. Carnac, from Shipowners and others engaged in the East India Trade, to appoint Commissioners to examine the fitness of Masters and Mates of Merchant Vessels.—By Mr. O'Connell, from the Proprietors of the *Bath Journal*, that the Libel law may be altered; and from the Licensed Spirit and Malt Dealers of Dublin, for a continuance of the Clause prohibiting Grocers from selling Spirits.—By Mr. Goulburn, from Bilston (Yorkshire), against the Qualification of Members Bill; from the same place, praying that the Military stationed at Malta might be excused from attending the Religious Ceremonies of the Inhabitants; and from the Registrars and Deputy Registrars of the several Dioceses in Ireland, to be exonerated from making a return ordered by the House.

Railway Report (Ireland).] Mr. *Ellis* said, he wished to ask a question of the right hon. Gentleman, the Chancellor of the Exchequer. He (Mr. Ellis) held in his hand a copy of the second Report of the Railway Commissioners for Ireland, addressed "to the Queen's most excellent Majesty," and in a note at the end of page 93 he found the following—

"So long back as in December, 1836, a body of capitalists, represented by Pierce Mahony, Esq., after an interview with the chief secretary, communicated to the commissioners a readiness to undertake any lines to the south-west that they should recommend, and offered to contribute 1,000*l.* towards making the necessary survey, and in May, 1838, they repeated their desire, on understanding that the Commissioners' Report would be very shortly after presented to Parliament. They explained the cause of their not having pressed on Parliament any views of their own, as they considered, that such a proceeding must have tended to embarrass the execution of the propositions that should be made by us."

And the note concludes thus—

"This is, no doubt, true, and we must think, that these gentlemen deserve credit for their forbearance. We have added the two letters to our appendix."

In the other copies of this Report which he had seen, and which had been freely distributed, the note he had just read did not appear, and as it seemed to him to be of particular importance, especially after the complaints made by the hon. and learned Member for Dublin the other evening against that Report of the Commissioners, the question which he, therefore, wished to ask was, by what authority so important a note had been expunged in the other copies of the report to which he had alluded?

The *Chancellor of the Exchequer* was not aware of the fact to which the hon. Member had called the attention of the House, but he would make inquiries on the subject.

PENSIONS.] On the motion, that the House resolve itself into Committee on the Pensions Bill,

Mr. *Hume* said, that knowing the great interest which the public took on the subject of pensions, he was anxious, that any arrangement which might now take place should be such as to give that satisfaction which the public had a right to expect from this proceeding. He wished, therefore, to propose, that instead of proceeding with the bill now, the Chancellor of the Exchequer should, as a former Chancellor of Exchequer had done, take a vote for whatever was requisite to pay the pensions, and bring in a measure early next Session to settle the whole question. The advantage of the course which he submitted was this—that Members would have an opportunity of seeing what was done in Committee, and of judging of the claims of those who were allowed to remain, as well as those who were removed. He had no hesitation in saying, that he differed very much from many of the decisions at which the Committee had arrived, particularly those by which they continued pensions to persons whose circumstances and connexions, in his opinion, gave them no claim whatever to the bounty of the Crown. He was also of opinion, that time should be allowed to consider the opinion which it was said was given by the law officers of England and Ireland as to pensions granted by patent. This opinion declared, that these pensions could not be disturbed, though he had always thought, that the right of the Sovereign to make such allowances ceased with his life. It was not clear, also, whether the pensions to be granted by her Majesty were to continue for the lives of the parties or for the life of the Queen. As he had already said, he dissented from many of the votes of the committee, and one of the points on which they and he differed was as to the propriety of continuing their pensions to the sisters and daughters of Peers, whose demands he could not sanction, because he was disposed to apply, as far as possible, the same rule to them and to those of the humbler classes who sought relief under the Poor-law Bill. He thought it a violation of the principle which should regulate these grants, that they were given to those who had other sources of income. It should be recollected, that the parties themselves were not called, with one exception before the committee, and the abstract of each party's claim, given in the Report, furnished in many instances very meagre evidence by which to judge of his right to be continued on the list. On all these grounds, he should move, that the further consideration of this bill be deferred to this day three months.

The *Chancellor of the Exchequer* said, he meant no disrespect to the hon. Member for Kilkenny when he said, that he never felt more astonishment than at hearing such a speech as that which he had just delivered, particularly when he recollected, that the hon. Gentleman was most sedulous in his attendance in the committee, not being absent a single day, and that he was a party to the Report, which was carried without a dissentient voice. There might be some ground for the argument of the hon. Member if the authority of the committee went for nothing; but when they sat thirty or forty days, and no effort was spared to arrive at the exact truth, he thought the report of that body to which the House had delegated its power should be decisive.

Mr. *Harvey* did not mean to take part in this discussion farther than to ask a question. He saw, by the Report, that the names of the persons who were to have pensions granted them, were to be printed by the next Session. Now, what he wished to know was, whether this was done, that Members might have an opportunity of challenging the grants, or merely with the view of giving information as to those who were the recipients of the royal bounty? Because, if it were for the latter purpose, it would be of no use; but, if for the former, it would meet the suggestion of his hon. Friend. He had not the pleasure of hearing the speech of the right hon. Gentleman (the Chancellor of the Exchequer) in introducing this subject, but he had the curiosity to read it, and he could not help thinking, that the right hon. Gentleman was too covetous in monopolising all the credit of having the inquiry instituted. Indeed, he had heard, that a public meeting was contemplated by those in the receipt of pensions, for the purpose of having their thanks returned to those through whose exertions a committee of inquiry had been appointed. Now, he must put in his claim for a share in this disinterested eulogy, because it could not be forgotten, that the right hon. Gentleman, Session after Session opposed inquiry, and that one of the arguments which he had unsuccessfully urged in favour of such a proceeding was, that some of the fairest forms, as well as the homeliest matrons would be saved from unjust imputation. He was quite willing to concede, on the one hand, that a great number had produced evidence well calculated to remove all suspicion as to the source of the grants, and as to the right of their continuance; but, on the other hand, there was no satisfactory evidence given which could induce the House to recognise many of those claims. Indeed, he was astonished, that any pension had been withheld at all; for with one exception (of the character of whose claim one might judge from the unanimity with which it was rejected), none of the parties were called on to produce any parol evidence. There was not a pauper who received his one or two shillings a-week, and whose name appeared on an union list which underwent the inspection of the guardians of the poor, who if written to to state the grounds on which the original allowance was conceded, and on what it was continued, but would make out as good a case as many of those reserved on the pension list had done. He admitted, that many had written very pleasing replies to the circular which had been forwarded to them, and in many instances very ancient pedigrees for family service and individual suffering, but in many instances he saw urged as a justification for the continuance of the grant, the fact, that the claimant had three or four brothers in the army, who for thirty or forty years passed through all the gradations of office. This might generally, be taken as a proof, that the party had no further claim on the bounty of the public, because those for an alliance with whom he claimed consideration had abundant opportunities wherewith to supply that accumulation which those who were prudent never lost sight of. But how many old and poor parochial pensioners were there; and how often did it happen, that the mother whose seven sons had enlisted, and who for a shilling a-day had undergone the fatigues of many campaigns, and sustained the glory of their country by their fall in its service, found her appeal met by this inquiry, "What is your present situation, what are your own resources, and what are your means of industry." The right hon. Gentleman, the Chancellor of the Exchequer, had imposed on those who were on the pension list an obligation to which he could not pretend any claim (though it seemed he had entitled himself to their gratitude by urging the necessity of inquiry), because the right hon. Gentleman was always to be found on the divisions of the committee in the majority where any pension was to be continued, and in the minority when the reverse was the case. It seemed, that the result of the inquiry was, that some had established their claims, there were others whose demands required further investigation, and there were others again whose names ought to have been altogether excluded.

The *Chancellor of the Exchequer* felt bound to give a frank answer to the question which had been put to him by the hon. Gentleman. The view with which he intended to lay the returns which had been referred to on the Table next year, was simply this, that the House might see whether the Government carried into effect the recommendations of the committee or not. The House had a right to see, that the recommendations of the committee were carried strictly into effect; and if there were any deviations from those recommendations, it was the duty of the hon. Gentleman to censure the Government for the course which they had thus advised. The hon. Gentleman was mistaken if he supposed, that he took any credit to himself in his first speech on this subject the other night for anything further than a desire to protect the just rights of the pensioners, and to perform his duty to the public. When the hon. Gentleman stated, that he had a right to share in the credit of having the committee appointed, he was too modest in pressing his merits on the attention of the pensioners, for his suggestion as to an investigation was not only adopted, but the very mode of writing to the parties to ask what were their claims, which the hon. Gentleman had recommended was ollowed. Indeed, the inquiry was made stricter than the hon. Gentleman had proposed; for when the reply was not satisfactory, he, and in some special instances, the Chairman of the committee, wrote to the party to ask for further information as to their claims. There was, he was sure the hon. Gentleman must admit, a wide distinction between granting a pension, in the first instance, and continuing it after it had been enjoyed for years. This difference was his justification for those votes of his upon which the hon. Gentleman had dwelt with so much earnestness.

Mr. *Hume* did not think, that he had been treated with perfect fairness by the right hon. Gentleman, who stated, that he had acceded to the report of the committee, without adding, that he wss to be found in the minority on many of the resolutions. For instance, he was to be found in a minority of three to ten on the question whether the daughter and sister of a Peer should be continued on the list, and also when the question was as to the continuance of the pension of a lady whose husband had 18,000*l.* a-year, and who left her 120,000*l.*

House in Committee.

On the first clause granting 136,000*l.* for the annual payment of pensions.

Mr. *Hume* asked, whether the pensions granted during the reign of the Queen would be binding on the present Sovereign only?

The *Chancellor of the Exchequer* said, that the civil list of her Majesty had been settled wholly apart and distinct from the list of pensions. That was the recommendation of the Civil-list Committee, and that was the principle on which the late Committee had proceeded. In respect of pensions granted by her Majesty, he could tell the hon. Member, that in case of a certain melancholy event, to which he would not more particularly allude, they would again come under consideration. But those pensions to which the present bill referred had no connexion with the life of her Majesty in any possible respect.

Mr. *Hume* said, that precluded the possibility of his agreeing to the measure. He wished to know whether there would be any objection to lay on the Table the opinion of the law officers of the Crown as to this bill. He was not satisfied with what had been done, and he appealed in justification of his dissatisfaction to the case of the pension of a certain marchioness, on which there was not a difference of opinion in the Committee, but that it ought to be struck off the list. But they were told that, as the law stood, could not be done.

The *Chancellor of the Exchequer* said, the principle of laying opinions of the law officers of the Crown on the Table of that House had always been much objected to. Besides, the cases to which the opinion of which the hon. Member had spoken referred were all stated in the Report, and they were by no means numerous. The case mentioned by the hon. Gentleman was, undoubtedly, one of those which ought to have been struck off, but the Committee felt, that to recommend its abolition in the present state of the law would be, to commit a violation of the rule on which all rights of property depend.

The *Attorney-General* said, that the hon. Gentleman (Mr. Hume) was quite mistaken as to the common-law prerogative of the Crown in respect of grants of pensions. By the common law the Crown could alienate any of the real property and revenues of the Crown. That was the ancient and undoubted prerogative of the Crown, and that prerogative was only limited and restrained so late as the reign of Queen Anne, since which none of the English possessions of the Crown could be alienated beyond the life of the reigning Sovereign. There was no such restriction enacted with respect to Scotland until the reign of George 4th. But in Ireland the prerogative remained as before that date in regard of pensions. Such was the conclusion to which, with the assistance of his right hon. Friend, the Attorney-general for Ireland, and his hon. and learned Friend, the Solicitor-general, he had reluctantly come; but in that opinion he believed, that there was no lawyer in England, Ireland, or Scotland, who would not, without hesitation, concur.

Sir *R. Peel* wished to say a few words in reference to the subject immediately before the House. The sum the Committee had to deal with was about 138,000*l.* The entire saving by compulsory reduction was 3,400*l.*, or about 2 per cent. upon the whole amount of the pensions. The right hon. Gentleman opposite had very fairly stated, after the inquiry, that there was decisive proof that the power held by preceding Governments had not been corruptly exercised in granting those pensions. They might have acted with too much liberality, but the right hon. Gentleman entirely acquitted them of having perverted their power for the sake of influence or other corrupt purposes. The result of the Committee was, that there was to be a saving of 2 per cent. Now, considering that the uniform practice heretofore was, to have those grants revised by the Crown, but that they were now about to establish new regulations which would prevent the possibility of abuse henceforth —considering, likewise, that all the good they were to effect by reduction was 2 per cent. on the original amount, he must say, he wished, that the Committee had concluded their Report with a recommendation, that Queen Victoria should not, for the sake of that 2 per cent., be put in the disagreeable and painful position of being obliged to discontinue pensions not granted for corrupt purposes, but for which the holders had a fair claim. He thought it would be much more liberal and much more just, when they were establishing regulations for the future, that they should have secured what was past, and continued those pensions they were about to strike off to the amount of 2 per cent. Had the Chancellor of the Exchequer chosen to pursue that course, he (Sir R. Peel) would have voted with him whether in the majority or minority. He most assuredly would have done so. He had no difficulty in avowing his opinions on this subject, however unpopular they might be. He most certainly wished it had been possible for the right hon. Gentleman, the Chancellor of the Exchequer, at the close of this inquiry, as the index of her Majesty's feelings, to have recommended, that they should humbly represent to her Majesty, that upon the whole it would be better to adhere to the uniform practice of her predecessors in reference to existing pensions, and adopt whatever measures might be deemed necessary for the future.

Clauses of the bill agreed to. The House resumed.

MUNICIPAL CORPORATIONS (IRELAND) —LORDS' AMENDMENTS. Lord J. Russell moved the Order of the Day for resuming the consideration of the Lords' amendments to this bill.

Mr. *Ball* objected to that part of the amendments by which charitable trusts were to continue to be vested in the present corporators during their lives, or until Parliament should otherwise determine. He moved, that the Committee disagree from that amendment.

Lord *Stanley* said, that in effect this would be to bring back the bill in this respect to its original state. He approved of this amendment of the Lords, and he hoped the House would concur in it. As the bill went up to the Lords, the power was given to the Lord Chancellor to appoint trustees, provided, that by the end of a year after the passing of the bill Parliament should not have otherwise determined. Now, he had a strong objection to resting the appointment of the trustees of charitable trusts in the Lord Chancellor, who was a political functionary, and must be supposed to be under the influence of political feelings and prejudices.

Lord *J. Russell* said, he did not claim for his noble Friend, the Lord Chancellor of Ireland, or for any other Lord Chancellor, a total exemption from the influence of political feelings; but let him ask, were the old corporators so far removed from all such influence as to be the best depositaries of those trusts? To him it appeared that they, without comparison, were much more objectionable on the ground of political feelings than a Lord Chancellor. He thought it would be much better to adhere to the old clause than to agree to the amendments sent down by the noble Lords, Mr. *Goulbourn* denied, that the old corporate bodies would be influenced by such strong political bias as the Lord Chancellor. It should be understood that the corporations were the trustees originally selected by the founders of the charities, as persons most likely to advance the interests of the trust, and he thought it would be most unjust to remove the powers legally intrusted to them, and vest those powers in the Lord Chancellor, who, from the nature of his appointment, must have strong political feelings. He was determined to support the amendments discreetly introduced into the clause by the other House.

The *Solicitor-General* contended, that the system of appointing charitable trustees in England had not been a failure; on the contrary, it had given every satisfaction. He denied, that the Lord Chancellor was at all actuated by political bias in making those appointments. He sate in his court to decide on all cases referring to charitable trusts, with feelings of as little partiality as if he were deciding in any case brought under his consideration as the chief law officer in the country. He heard all petitions on the subject as the presiding judge of the Court of Chancery, and not as the partisan of the Government; but if the trusts were vested in the ex-corporators, who had left office with excited and angry feelings, great party bias would prevail.

Mr. *O'Connell* expressed great surprise at the remark of the noble Lord (Stanley), that the Irish Corporations had not abused the trust vested in them. Had it not been proved that a sum of 2,900*l.*, which was held by the Corporation of Belfast as trustees in 1787, was not applied to charitable purposes, but actually expended on the corporate body themselves? The same parties had let out at nominal rents for ninety-nine years to Protestants, their own private and political friends, lands left for the benefit of a charity called the Poor of St. John's. How did the Corporation of Dublin act? Did they not vote from the charitable trusts 2,500*l.* for corporate hospitality, and 1,000*l.* to the Lord Mayor! They also had entertained a notion of voting a sum to the Recorder. An appeal was then made to the Government for an information to be filed by the Attorney-General against the Corporation, but it was made in vain; time after time was it refused. At length, however, an information was filed, and to this a demurrer was entered; but this having been reversed on an appeal to the Lords, the cause came on to be tried and there was found a defalcation of 75,000*l.* in the funds of this charity. Now, was it intended that the present trustees should continue to have the management of these funds, which produced 13,000*l.* a-year? As the clause stood now in coming down from the Lords, this would be the case. The noble Lord opposite had excused himself on this point, when he said, there were no abuses in the charities of Ireland, by saying that this was no charity; but that was not correct, for this was a charity. Under these circumstances, he thought the House ought not to hesitate about changing the trustees. Why, since the Chancellor of England, although a political officer, was trustee to other charities, should he not have the management of this? If he were trusted with the countless millions that came under his control, why should he not be allowed to act as trustee, or appoint trustees of this comparatively trifling and insignificant sum? He would not speak of Lord Plunkett, but would propose the Chancellor of England as the trustee; and since the noble Lord had spoken of that learned Lord with some degree of distrust, as to being biassed by political feelings, he must say, that it was the first time he had heard a word spoken about him, except in terms of the highest praise, and he believed, that no man had ever filled a judicial office who had given such entire satisfaction. It had been hardly expected of him when he was appointed, but the result had realized what had not been looked for, and he was as good a Chancellor as any one who had ever filled that important office. Or why, indeed, should not Lord Plunkett be the trustee? That learned Lord had never, he believed, been accused of sacrificing his judicial situation to his political feelings, and there was no reason why he should not be trusted with these funds. If the clause continued as it stood now, the corporators would in future be liable to no responsibility whatever, except in the Court of Chancery. This was very bad; it was, in short, making them a present of the money; and was it to be supposed that the Dublin corporators were men of such property and respectability that they would not accept it? He thought not; for there was only a small number of them of rank or fortune. He had reckoned himself that during the last thirteen years, there were nine of the Lord Mayors who were either bankrupt or very nearly so. Were these, then, the persons who were to be intrusted with these funds? Any scheme to continue the management of them in such hands was a monstrous proposition, and better would it be to leave things entirely as they were now than to introduce an arrangement so objectionable.

Mr. *Shaw* was sorry to go into a discussion of subjects not entirely belonging to the bill before the House, but he must say, in answer to the hon. and learned Member for Dublin, that what he had stated with respect to the Pipe-water Charity was in substance a misrepresentation; for the defalcation which he had spoken of, was wholly a matter of accounts, and there was no charge or proof whatever of fraud. Now as to this property being corporation property, he should only say, that in the Court of Chancery, and also in the Rolls, it had been declared to be the absolute property of the Corporation, after the trusts for which it had been given, were performed. Did the hon. and learned Gentleman mean to say, that the Lords in their amendment, intended to divest the Corporations, either new or old, of this property? For if so, he should say, that it was not their intention, and that it would be most unjust and most unfair to do it. The question indeed, was, whether the trustees should be filled up by the Lord Chancellor, or by the appointment which had been made at a given time. There was, however, one great improvement in this clause, which consisted in vesting the property in the governing body only of the corporation, and not in the whole corporation. He wished to hear from the noble Lord opposite (Lord J. Russell) whether the funds of the Pipe-water Charity were to be taken from the Corporation of Dublin or not?

Lord *J. Russell* said, in reply, that he proposed to withdraw, at the end of the clause, the words that "no use or trust for supplying water should be deemed a use or trust under this Act."

The *Attorney-General* agreed in the principle of this clause. He thought that where there was a charity belonging to the Church of England it was improper that its funds should be administered by Catholics or Dissenters, and the same principle would apply *mutatis mutandis*. But his objection was, that the clause interfered with what properly belonged to the Lord Chancellor. It was a principle which ought to be acted on, and a principle on which any Chancellor would act.

Sir *R. Peel* said, he should be content with the clause if it stood as he originally proposed—that is, without any specific reference to Roman Catholics. He should not think it necessary to make any specific provision with respect to Protestant Dissenters. He should be content to enact that, where there was any money left under charitable trusts, exclusively applicable to religious education, according to the principles of the Protestant Church of Great Britain and Ireland, the trustees should be of the established Church without any specific exception as to Roman Catholics.

Mr. *O'Connell* concurred in the principle stated by the right hon. Baronet, that religious trusts should be in the hands of persons professing that religion; but the clause went further, and would tend to introduce religious exclusions. The superintendence would be in the hands of Protestants, and that would suffice. The visitors of Maynooth College (except one or two) were Protestants; the visitors of charitable donations were all Protestants, so there would be sufficient superintendence. As the clause stood, it was an offence to Protestant Dissenters, and especially to Roman Catholics.

Amendment agreed to.

After clause 161, several new clauses were proposed by Lord Morpeth, for the purpose of giving power to certain towns not included in the act to apply the provisions of the act of the 9th of George 4th.

Sir *R. Peel* contended, that the amendments proposed by the noble Lord would really not have the effect of introducing the provisions of the act of the 9th of George 4th. The inhabitants of the towns to which that act was applicable, had it in their own option to accept its provision or not. It required, first, that an application should be made by the 20*l.* householders to have it applied; next, that a meeting of the inhabitant householders should have determined in favour of it. But the noble Lord's clauses would dispense with these preliminary steps, and make it imperative on the inhabitants to submit to the provisions of the act, however much they might detest them. The noble Lord had not enabled the House to judge of the effect of the clauses, by giving any notice whatever. [Lord *J. Russell.*—Last night I gave notice.] It was quite inaudible. It seemed clear to him, in fact, that the noble Lord had determined not to pass the bill into a law. He felt it was quite impossible to discuss the clauses with effect, no notice having been given; and if Government had determined not to pass the bill, it was quite clear.

Lord *Stanley* said, if there were any measure on which the House took care that the most deliberate caution should be exercised, it was one that involved taxation. Yet here was a clause which proposed to levy a new and compulsory tax on the people of Ireland submitted to the House without the least previous notice, without preliminary consideration in a Committee, and without passing through any of those other stages which were necessary in the case of all enactments relating to money. It was very questionable whether they had the power of considering the clause in point of form, and it was most unquestionable that they ought not to consider it in point of justice.

Lord *J. Russell* must say, that he thought the tone of complaint adopted by the noble Lord and right hon. Gentleman opposite rather extraordinary. This was a bill sent down from the House of Lords with ninety-two new clauses. The noble Lord had already told them, when another amendment was under consideration, that it would be an insult to the House of Lords to replace in the bill the words originally fixed upon by the House of Commons. Well, he did not now propose to insist on the original proposition; he was willing that some thirty or forty towns, to which by the provisions of the House of Commons' bill corporations would have been extended, should be deprived of them; he accepted the proposal of the Lords, and then he was told, that he ought to have abstained from making this proposal, because it was new. Then, if they were not to do either of those things, there could be nothing left for them except to agree word for word to every one of those ninety-two clauses inserted by the Lords, and to express their unqualified assent to the omission of the twenty-six that had been left out. If they were to be told, that the Lords having changed the whole bill, in principle almost as much as in form, having altered every clause, they could not make any changes that might seem required in those amendments, then it was at least as competent for him to say that the House of Lords could not have so made amendments without supposing that there would be some risk of the rejection of the bill in consequence, sending down, as they had, so many clauses which must be peculiarly objectionable to those on his side of the House, so many provisions which must be peculiarly obnoxious to the representatives of Ireland. He might say this with as much justice as the right hon. Gentleman opposite had said, that he (Lord J. Russell) had determined not to pass the bill at all, because he had not submitted himself, because he had not bent his neck, to the yoke of the House of Lords. As to the assertion, that the clauses would not in effect introduce the provisions of the act of the 9th George 4th into the smaller towns of Ireland, he should only remark, that the Lords had determined that the Irish towns, with the exception of twelve, should be governed by a board of commissioners, elected by persons occupying houses rated at 10*l.* annual value. To the principle of this alteration, taking away, though it did, corporations from the greater number of towns included in the original bill, he would not object; but he proposed, that the Commissioners should be elected by persons rated at 5*l.* instead of 10*l.* Many of those boroughs were very small, of inconsiderable population and property. Was it unreasonable in him to say, that a 10*l.*, or even an 8*l.* rating, would be too high in a small town of 3,000 or 4,000 inhabitants or less, and that it was expedient to extend the elective body somewhat further? It was no doubt true, that the optional principle of the 9th George 4th was not retained. He hoped he might be permitted humbly to protest against the entire repudiation of even the least important principles of the original bill. When the amended bill should be returned to the House of Lords, he had not such an opinion of that body as to suppose that they would not take the Commons' reasons into consideration. If they saw fit on some points to differ from them, they would, he might expect, give their reasons for disagreement in a Parliamentary way, and not declare, that because the Commons did not at once agree to their amendments, it was evident they were determined not to have the bill passed.

Sir *R. Peel* must say, he had never heard a greater msrepresentation, or one more unfair to himself and his noble Friend, than that made by the noble Lord. Had he objected in any way to the rejection of the amendments of the House of Lords, to the competency of that House to deal with them as they pleased? No such thing; he had himself proposed, in the course of the evening, important alterations in the amendments of the Lords; but he had objected to the course taken by the noble Lord in calling upon them to adopt an important principle without the slightest notice. Nothing could have been easier than for the noble Lord to have given the regular and usual notice; but instead of doing so, he had called on the House summarily to decide whether the 9th of George 4th should be forced on certain towns in Ireland without consulting their wishes; and this convinced him that either the regulations of the House were defective, or the conduct of the noble Lord was objectionable. But the noble Lord had found it convenient, in order to raise a cheer from those behind him, to mistake altogether the tenour of their objections, and to assume that he had asserted that the House of Commons had no right to alter amendments made in a bill by the Lords, and that the noble Lord was called upon to bow his neck to their yoke. He had said nothing of the kind—nothing that could justify such an interpretation.

Viscount *Morpeth* maintained, that his noble Friend had not made the slightest misrepresentation. The noble Lord, the Member for North Lancashire, had twice that evening objected to making alterations in the amendments of the Lords, and the right hon. Baronet had inferred from the proposal of those alterations, that Government was determined not to have the Bill passed. He contended that his noble Friend, in his speech last night, had given ample notice of his intention to submit the proposition now before the House. Why! the right hon. Baronet had raised the objection, and said, that he disliked this very part of the proposition of the noble Lord. He begged the House to consider that the clause which it was now proposed to insert, did not involve any greater amount of taxation than that which originally stood in the Bill as sent up to the House of Lords.

Sir *J. Graham* said, before the House went to a vote, he was anxious to ascertain from the chair, whether in point of form at this stage of the proceedings it was competent to propose a clause of this nature, involving a question of taxation, for insertion in any Bill. With respect to the last assertion of the noble Lord, he utterly denied that any such power as the noble Lord spoke of, was contained in the Bill as sent up to the House of Lords.

The *Speaker* said, it appeared to him that the existing regulations of the House were inadequate to meet cases of this nature and it was absolutely necessary, if the course now proposed with respect to inserting this clause were to be adopted generally, that the House should institute some other mode of proceeding more calculated than their present mode to meet the exigencies of such cases as this. He knew of no mode of proceeding among the existing regulations which was calculated to give satisfaction in this case. As to the question which had been put to him, he was not able to state an opinion, because he did not know the facts; but if he were to take the statement of the right hon. Baronet, he should say, that there might be very great room for doubt, whether or not the House could adopt this amendment in this stage of the proceedings. If the difficulty which had been stated by the noble Lord, the Secretary of State for the Home Department, should arise, then the proper course would be, that the House resolve itself into a Committee of the whole House, to consider the amendments, and that, he must say, to him, did seem to be the best course to adopt.

The *Chancellor of the Exchequer* said, the proposition of his noble Friend was rendered necessary, by the amendments introduced by the Lords. The House had heard the objection that this clause gave a taxing power, and that it ought, therefore, to be previously considered in a Committee of the whole House. But the fact was, that this clause contained no taxing power whatever, except what was contained in the bill as sent up from the House of Commons, and that power was proposed to be carried out by machinery, if not the same as that in the bill as sent up to the Lords, only differing from it by a limitation on it. He contended, therefore, that it was competent for them to introduce this clause, which was either the same as their own clauses, or if it differed from it, only differing by being within them. With respect to the act of the 9th of George 4th of which so much had been said, he begged to observe that the whole of that bill, as well as a similar bill for England and Wales, had originated in that House without any previous Committee of the whole House, respecting the taxing clauses. The question was as to the taxing power. Now their own original taxing clauses went through Committee, and that original clause was infinitely wider than in its present form.

The House divided on the question that the clause be agreed to. Ayes 116; Noes 97: Majority 19,

List of the AYES.

Adam, Admiral
Aglionby, H. A.
Alston, R.
Archbold, R.
Ball, right hon. N.
Bannerman, A.
Barnard, E. G.
Bellew, R. M.
Benett, J.
Berkeley, hon. H.
Bernal, R.
Bowes, J.
Brabazon, Lord
Brabazon, Sir W.
Briscoe, J. I.
Brotherton, J.
Bryan, G.
Cave, R. O.
Cayley, E. S.
Chalmers, P.
Childers, J. W.
Clements, Lord
Codrington, Adm.
Collins, W.
Crompton, Sir S.
Curry, W.
Dalmeny, Lord
Dashwood, G. H.
Divett, E.
Duke, Sir J.
Easthope, J.
Ebrington, Lord
Evans, G.
Ferguson, Sir R.
Finch, F.
Gordon, R.
Grattan, J.
Grey, Sir G.
Harvey, D. W.
Hastie, A.
Hector, C. J.
Hill, Lord A. M.
Hobhouse, Sir J.
Hobhouse, T. B.
Hodges, T. L.
Hollond, R.
Hoskins, K.
Howard, P. H.
Howard, Sir R.
Howick, Lord
Hume, J.
Hutt, W.
Hutton, R.
Labouchere, H.
Lemon, Sir C.
Leveson, Lord
Lushington, Dr.
Lushington, C.
Lynch, A. H.
Macleod, R.
Marshall, W.
Martin, J.
Morpeth, Lord
Morris, D.
Murray, J. A.
Muskett, G. A.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Palmer, C. F.
Palmerston, Lord
Parker, J.
Parnell, Sir H.
Pattison, J.
Pechell, Captain
Pendarves, E. W.
Ponsonby, J.
Power, J.
Pryme, G.
Redington, T. N.
Rice, rt. hon. T. S.
Rich, H.
Rolfe, Sir R. M.
Russell, Lord J.
Russell, Lord
Russell, Lord C.
Salwey, Colonel
Scrope, G. P.
Seymour, Lord
Sheil, R. L.
Smith, J. A.
Smith, hon. R.
Smith, R.
Somerville, Sir W. M.
Stewart, J.
Stock, Dr.
Stuart, Lord
Strangways, J.
Style, Sir C.
Thomson, C. P.
Thornley, T.
Troubridge, Sir E. T.
Turner, E.
Vigors, N. A.
Villiers, C. P.
Vivian, Sir R. H.
Wallace, R.
Warburton, H.
Williams, W. A.
Winnington, H.
Wood, C.
Wood, G. W.
Wyse, T.
Yates, J. A.

TELLERS.
Steuart, R.
Stanley, E. J.

List of the NOES.

Acland, Sir T. D.
A'Court, Capt.
Attwood, M.
Bagge, W.
Baker, E.
Barrington, Lord
Blackburne, I.
Blackstone, W. S.
Blair, J.
Blennerhasset, A.
Bramston, T. W.
Broadley, H.
Buller, Sir J. Y.
Canning, Sir S.
Chute, W. L. W.
Codrington, C. W.
Compton, H. C.
Coote, Sir C. H.
Corry, hon. H,
Dalrymple, Sir A.
Darby, G.
De Horsey, S. H.
Douglas, Sir C.
Douro, Marquess
Dowdeswell, W.
Dunbar, G.
Duncombe, W.
East, J. B.
Eaton, R. J.
Egerton, W. T.
Eliot, Lord
Estcourt, T.
Farnham, E. B.
Filmer, Sir E.
Fitzroy, hon. H.
Fleming, J.
Forester, hon. G.
Gordon, Capt.
Goulburn, H.
Graham, Sir J.
Granby, Marquess of
Grimston, Lord
Grimston, hon. E.
Heneage, G. W.
Herbert, hon. S.
Herries, J. C.
Hillsborough, Earl of
Hodgson, R.
Hope, H. T.
Hope, G. W.
Hotham, Lord
Ingestrie, Lord
Inglis, Sir R. H.
Irving, J.
Jones, T.
Kemble, H.
Knightley, Sir C.
Lascelles, W. S.
Lockhart, A. M.
Lowther, J. H.
Lucas, E.
Lygon, Gen.
Mackinnon, W.
Mahon, Lord
Manners, Lord C.
Meynell, Capt.
Miller, W. H.
Neeld, J.
Neeld, Jos.
Norreys, Lord
Ossulston, Lord
Peel, Sir R.
Perceval, Col.
Perceval, hon. G.
Praed, W. T.
Richards, R.
Rushbrooke, R.
Rushout, G.
Shaw, F.
Sibthorp, Colonel
Somerset, Lord G.
Spry, Sir S. T.
Stanley, L
Sturt, H. C.
Tennent, J. E.
Thomas, Col.
Thornhill, G.
Tollemache, F.

Trench, Sir F.
Tyrell, Sir J. T.
Vere, Sir C. B.
Verner, Col.
Vivian, J. E.
Waddington, H.
Walsh, Sir J.
Wood, T.
Young, J.

TELLERS.

Freemantle, Sir T.
Holmes, W.

Clause inserted.

The remainder of the Lords amendments were disposed of, and a Committee appointed to draw up reasons for dissenting from the Lords amendments, to be stated in a conference with the Lords.

REWARDS FOR THE APPREHENSION OF OFFENDERS IN IRELAND.] On the order of the day for going into the Committee of ways and means,

Sir *F. Trench* rose, pursuant to his notice, to move for a select Committee to inquire into those cases in which the Irish Government had offered rewards for the apprehension or conviction of offenders against the laws, and in which such rewards or any portion of them have not been paid after such apprehension or conviction, and into the causes why they have been withheld. The hon. and gallant officer observed, that the system of offering rewards for the apprehension or conviction of offenders and not paying them, tended to give to the Irish people a notion that the Government was not in earnest in enforcing the laws. Many instances had occurred where rewards had been offered, and where the parties who had claims to those rewards had received only the half, and in others only a fifth, of the reward offered. One man had got not a fifth of the offered reward, and when he stated, that he had exposed his life to danger in the conviction of the offender, he was told that his life could not have been in danger as he was still alive. The effect of this refusal to pay the reward in full would be to discourage persons from all attempts to detect and bring offenders to justice. In one case a man named Kelly had been murdered in Kildare. A reward of 50*l.* was offered by the Government for the apprehension of the murderer. He was apprehended and brought to justice, but the party who had caused his apprehension received only 10*l.* of the 50*l.* Perhaps the noble Lord (Morpeth) would inform the House why this man had not received the whole. He thought the system adopted by the Irish Government extremely bad and injudicious, and he regretted that an opportunity had not been afforded him of bringing the subject earlier under the consideration of the House. He thought the noble Lord ought to give a distinct pledge that the Irish Government would henceforward act up to its promises. The hon. and gallant Member concluded by moving the amendment as above.

Colonel *Perceval* seconded the amendment, but thought it was rather too late in the Session to have any practical good result from the Committee.

Viscount *Morpeth* regretted, that there was so great a disproportion between the rewards offered and those paid; but the Government did not depart from the practice adopted by their predecessors. He thought it judicious that before rewards were paid the stipendiary magistrates should be consulted, and that the evidence taken in the courts of justice should be considered. If witnesses who had prevaricated were to receive all the rewards offered, it would establish a precedent that would frustrate, instead of advance, the ends of justice.

Motion withdrawn.

AFFIRMATIONS.] On the motion to go into a Committee on the Affirmations Bill,

Mr. *Goulburn* objected to the principle of the bill because it was retrospective, inasmuch as it extended the exemption from taking an oath to all those who had ever been at any period of their lives Quakers or Moravians. This mode of dealing out exemption by measure after measure was most paltry, and although he was of opinion that oaths were not only lawful, but did much to elicit truth, yet it would be better to pass a general measure embracing all classes.

Mr. *P. Thomson* observed, that this measure had been introduced in another place by a noble Lord of opposite politics to himself, and yet had passed unanimously. The right hon. Gentleman (Mr. Goulburn) had said, it would be better to decide at once if oaths were to be abolished entirely, and he certainly agreed with him, and would most willingly have carried a measure of that kind, but he could not get it. One or two bills of this kind that had been introduced into the other House had been all rejected from their going too far. He himself was willing to have a general measure, but he was unable to carry it. The right hon. Gentleman now said, he should dissent from any such measure, though he had understood him to say the contrary. In the present bill, however, he had done as much as he had been able. Was there no practical grievance here? In his opinion there was one of a most serious kind; for he had known the ends of justice to be entirely defeated, because the body whom this bill was intended to relieve would not give their evidence in a court of justice if they were obliged to take an oath. He, therefore, hoped the House would consent to his motion.

Mr. *Pryme* supported the bill, as enabling litigant parties to avail themselves of the evidence of witnesses who had religious scruples against the taking of oaths.

Sir *R. Inglis* opposed the bill, inasmuch as it would enable every person to come into a court of justice, and exempt himself, on the simple declaration that he had belonged either to the Society of Friends or the sect of Moravians, from that test of truth to which others were liable. The bill dispensed with that superstitious feeling which those conversant with courts of justice well knew was attached to the solemnity of an oath by witnesses generally, and he therefore joined with his right hon. Friend in opposing its further progress.

The *Attorney General* regretted that such petty legislation should take place on so important a subject, as he felt convinced that the only remedy for existing evils would be a general bill, not for the abolition of oaths altogether (for to that he for one was not prepared to assent), but to enable all those who entertained a religious scruple to the taking of an oath to give evidence on a solemn affirmation, which such individuals considered would be as binding upon them to speak the truth, and which would be attended with the same secular and penal consequences if they did not, as if they had been guilty of perjury. A general measure must ere long meet the approbation of the Legislature, for numerous sects were almost of daily growth, and their claims on the ground of religious scruples were too strong to be resisted. He could not see the distinction between a man who had been a Quaker or Moravian, and another who still continued of those sects—the latter was exempted, while, however, the other would be disabled by his scruples from giving evidence. Thus, in many cases, justice was defeated, and in the absence of a general measure, he should support the present bill.

Bill went through Committee, the House resumed.

Spirit Licences (Ireland)]. Mr. *E. Tennent* moved the order of the day for the House to go into Committee on the Spirit Licences (Ireland) Bill.

Mr. *Shaw* opposed the motion, as he considered that a measure of this sort would be productive of the worst consequences. He did not mean to cast any reflection upon the grocers of Ireland, because he knew that they were a most respectable class of individuals, and he only objected to this measure because he felt that by so doing he was performing his duty to the public. What he objected to was, that the grocers should be allowed to sell spirits to be drunk upon the premises when those premises were not licensed as public-houses, and consequently not subject to the public-house regulations. He thought the conduct of the Government in regard to this measure totally inexcusable, as they had given him to understand that they would oppose this bill, while they now supported it, although he was persuaded that they and every other authority allowed that such a system as this bill would continue for another year, ought to be put an end to. He was willing to accord ample time for the grocers to dispose of their stock of spirits, but two years had already been granted for that purpose, and, under all the circumstances of the case, he felt bound to oppose the further progress of the measure, and he should give it his most strenuous opposition in every stage.

Lord *Clements* said, he felt compelled, although reluctantly, to support the motion of the right hon. Gentleman, and resist the further progress of this bill.

Mr. *O'Connell* supported the bill, and said that a Committee of that House had decided in favour of the grocers having the power of selling spirits. It had, however, afterwards been reported that they had abused the privilege, but a deputation which they had sent over had proved that that report was unjust. He trusted that the House would consent to allow the grocers another year to dispose of their stock, and in that time they and the Legislature would have ample time to make arrangements for the future.

The House divided on the question that the Speaker do now leave the chair:—Ayes 28; Noes 23:—Majority 5.

List of the AYES.

Aglionby, H. A.
Archbold, R.
Blennerhassett, A.
Bridgeman, H.
Finch, F.
Grattan, J.
Hobhouse, T. B.
Hodges, T. L.
Howard, P. H.
Lynch, A. H.
Morris, D.
O'Connell, J.
O'Connell, M. J.
O'Connell, M.
O'Ferrall, R. M.
Parker, J.
Pechell, Capt.
Power, J.
Pryme, G.
Redington, T. N.
Salwey, Colonel
Sheil, R. L.
Somerville, Sir W. M.
Steuart, R
Stock, Dr.
Verner, Col.
Vigors, N. A.
Wallace, R.

TELLERS.

O'Connell, D.
Tennent, E.

List of the NOES.

Acland, Sir T. D.
Acland, T. D.
Brotherton, J.
Clements, Lord
Curry, W.
Darby, G.
Ferguson, Sir R.
Goulburn, H.
Graham, Sir J.
Hawes, B.
Hodgson, R.
Hutton, R.
Inglis, Sir R. H.
Jones, T.
Lowther, J. H.
Perceval, Col.
Perceval, hon. G.
Rushbrooke, R.
Style, Sir C.
Thornhill, G.
Trench, Sir F.
Wood, G. W.
Young, J.

TELLERS.

Lucas, F.
Shaw, F.

The House in Committee, but almost immediately resumed.

Committee to sit again.

* * *

HOUSE OF LORDS,

Saturday, August 4, 1838.

MINUTES.] Bills. Received the Royal assent:—Tithes and Land Merger; Prisons (West Indies); Conveyance of Estates; Local Acts Commissioners; Turnpike Acts; Gibraltar Lighthouse; Gunpowder and Arms (Ireland); Turnpike Roads (Ireland); Dublin Police; and Entails (Scotland).—Read a second time:—County of Clare Treasurer.—Read a third time:—Custody of Insane Persons; and Liverpool Clergy Endowment. [A Conference was held with the Commons, when the Commons gave in their reasons for disagreeing to their Lordships Amendments on the Municipal Corporations (Ireland) Bill.]

Petitions presented. By the Earl of CHICHESTER, from Greenock, against the Parliamentary Burghs (Scotland) Bill; and from the Glasgow, Greenock, and Paisley Railway Company, against the Mails by Railway Bill.

* * *

HOUSE OF COMMONS,

Saturday, August 4, 1838.

MINUTES.] Bills. Read a first time:—Consolidated Fund; Exchequer Bills; Public Works (Ireland).—Read a second time:—Slave Trade Treaties.—Read a third time:—Affirmations.

THE DUTIES (CORNWALL).] The *Chancellor of the Exchequer* moved, that the report on the Duchy of Cornwall tin duties be brought up, it was brought up accordingly. He then moved, that the following resolutions be read a second time:—

"1. That the duties of customs payable on the importation of tin and tin ore shall cease, and, in lieu thereof, the following duties shall be paid, that is to say— £. s. d.
"Tin, the cwt .. 0 15 0
"Tin ore, for every 100*l.* of the value 10 0 0

"2. That the duties payable on the coinage of tin in the counties of Cornwall and Devon shall be abolished.

"3. That in lieu of the coinage duties on tin, in the counties of Cornwall and Devon, the Commissioners of her Majesty's Treasury be authorized to direct the issue to her Majesty, or the personage entitled to the revenues of the duchy of Cornwall, of an annual sum out of the consolidated fund equal to the net average annual amount of the said coinage duties.

"4. That the commissioners of her Majesty's Treasury be authorized to make compensations out of the consolidated fund, to all officers and others employed in relation to the said coinage duties, for any loss they may sustain by the abolition thereof."

Mr. *Hume* objected to the resolutions, which he characterised as most extraordinary. A resolution had been secretly introduced at midnight to take 22,000*l.* from the Consolidated Fund, to put into the pockets of the persons who held the income of the Duchy of Cornwall, and to relieve the owners of tin mines of the duty they had hitherto paid. He did not object to her Majesty making an abatement of this duty. Early in the Session he had taken an objection to the Duchies of Cornwall and Lancaster being attached to the Civil List. The right hon. Gentleman said he would bring in a bill to regulate them; he had never done so, and it was not until after twelve o'clock on a previous night when resolutions were gone into with respect to the tin duties. The revenues of the Duchies of Cornwall and Lancaster from June, 1837, to June, 1838, were 28,466*l.*, the expenses 12,000*l.*, being an expense of upwards of thirty per cent. towards a collection of the revenue. Of those revenues 19,679*l.* was what was called the tin duties, which were fifteen shillings a ton. It then provided that the duties on the coinage of tin should be abolished, and in lieu of those duties now payable by the proprietors to her Majesty as Duke of Cornwall—that the amount of these duties 19,679*l.* should be charged upon the Consolidated Fund. But that was not all; the commissioners of her Majesty's Treasury were authorized to pay the officers for any loss sustained by the abolition of these duties. The salaries and annuities amounted to 5,300*l.* for the last half year. Why the act was as black as the midnight hour at which it was brought in. He never knew of anything so atrocious or so audacious in the annals of the proceedings of that House. If the Chancellor of the Exchequer had not broken his word to the House, and to him, was there any man living who would not have moved for a committee to inquire into the circumstances? This was an attempt to interfere with the public monies without due notice, and he should move that the report be read this day three months.

The *Chancellor of the Exchequer* said, that however he might be induced by the conduct and example of the hon. Gentleman to indulge in language as strong as that which he had felt himself justified in using, he knew too well the respect which he owed to the House and to the usages and feelings of gentlemanly society, to pursue the same course as the hon. Gentleman. Even if he were to condescend to follow his example, he doubted whether he should produce any salutary effect. He would, therefore simply confine himself' to a true statement of the facts of the case, and he was willing to constitute hon. Members his jury. If they acquitted the hon. Member and condemned him, that acquittal would only arise from their being able to trace to the hon. Member such an absence of all memory and recollection as would protect him from the imputation of falsehood, but would leave him open to the imputation of the most unparalleled and inexcusable ignorance. He wished to call the attention of the House to the principle on which this resolution was founded. The measure was neither unjust to the public, nor one which the House had any right to complain of. A few months ago a public meeting had been held in Cornwall, from which a petition had been sent to that House, complaining of the grievances of the present tin duties in Cornwall, and praying they might be abolished, and compensation granted to the Crown for the net amount they produced. The bill had been introduced in conformity with the prayer of that petition. On the first discussion with regard to the civil list, this proposition had been mentioned, and the Government had secured great advantage to the public by reducing the duties on tin, which were now prohibitory. Was it just to represent the Government as having on this occasion taken the House by surprise, in bringing forward a plan which had been so long promised. He should like to ask the hon. Gentleman whether he conceived the consumer had no interest in the matter, or that the public did not consider these duties as a weight upon them? The hon. Member had stated, that he (the Chancellor of the Exchequer) had said he was ready to lay the particulars of the revenues of these Duchies before the House. Now, what was it he really did state? Why, he had said, that with respect to the revenues received since the accession of her present Majesty he would give a most accurate statement of the receipts and disbursements of the Duchies; but that he would not, and could not, consistently with his duty, give them before that period, because they were then the private property of his late Majesty. He would refer to all who had better memories than the hon. Member whether what he had stated was not correct. The present account contained the full particulars of all the revenues that had been received from the Duchies since the commencement of her present Majesty's reign. He would put it to the House whether it was right under such circumstances that the hon. Member should charge him in the manner he had done. The hon. Member had dealt with the case as if it were the first of compensation that had taken place, whereas the very principle had been acted upon repeatedly by Parliament. The hon. Gentleman insinuated that her Majesty's Government were taking away the property of one class of the community to meet the defalcation of another, which could be termed nothing but robbery. He denied the accuracy of that as well as of every other statement of the hon. Gentleman. Did he forget that a bill had passed for the improvement of the administration of justice in Cornwall, one-half of the expenses of which were to be defrayed out of the revenues of the Crown? The salaries of the persons connected with the tin duties did not amount to more than 3,900*l*, a-year, instead of 12,000*l.* as asserted by the hon. Member. Did the hon. Gentleman think that a public officer should be held up to public odium, so far as his small powers went, for having complied with the prayer of a large and influential community? If so he was much mistaken, and he trusted the House would give him credit for having discharged his duty in a most straightforward manner.

Sir *C. Lemon* thought the Chancellor of the Exchequer had defended himself perfectly from the attack of the hon. Member for Kilkenny. The Cornish Members wished for no concealment, and had made none.

Lord *Eliot* begged to corroborate, as far as his knowledge went, the statement made by the Chancellor of the Exchequer. The noble Lord concluded by expressing his regret at the necessarily tardy introduction of this measure.

Sir *H. Vivian* was sorry that the hon. Member should have applied the term "disgraceful" to this bill, which he considered was most just and proper. The amount of the present duty on tin was not so much the grievance complained of as the vexatious and inconvenient proceedings which were connected with it.

Lord *G. Somerset* said, that although it was his intention to support the resolution in the present stage, he should be sorry to do so on the principle set forth by the right hon. Gentleman the Chancellor of the Exchequer. It was his intention in a future stage to propose the reduction of the duty. He would support the resolution because he felt convinced, that it would never be adopted in any other reign. If he had been the responsible adviser of the Crown he would have given his assent to the proposition. He thought it wrong to take from the Crown and place on the Consolidated Fund the hereditary revenues of the country.

Mr. *Poulett Thomson* entirely agreed with the noble Lord that they were justified in making the transfer, solely because they had no hope of reducing the duties on tin without resorting to some arrangement of that sort.

Resolutions agreed to and a bill founded on them, brought in and read a first time.

* * *

HOUSE OF LORDS,

Monday, August 6, 1838.

Minutes.] Bills. Read a first time:—Militia Ballot Suspension; Valuation of Lands (Ireland); Bank of Ireland Repayment; Militia Pay; Oaths Validity; and Stamp Dies.—Read a second time:—Constables on Public Works; and Mails on Railways.—Read a third time:—Juvenile Offenders.

Petitions presented. By Lord Segrave, from the Grand Jury of the county of Glocester, for the Repeal of the Beer Act.—By the Duke of Wellington, from certain Individuals, against postponing the period for the Imprisonment for Debt Bill coming into operation.—By the Earl of Shaftesbury, from the Ministers of three denominations of Dissenters, for Improvements in Prison Discipline.—By the Marquess of Salisbury, from Hertford, in favour of Mr. Hill's Postage plan.—By the Bishop of London, from Bury St. Edmund's, and other places, against encouraging Idolatrous Ceremonies in India; from the Clergy of Limerick, and other places in Ireland, against parts of the Irish Tithe Bill.—By Lord Ashburton, from a place in Essex, against the Beer Act.—By the Earl of Roden, from Dublin, and other places in Ireland, against parts of the Irish Municipal Corporation Bill; from Bath, against any further Grant to the College of Maynooth.—By the Earl of Chichester, Viscount Canning, and the Earl of Lichfield, several, from various places, against encouraging Idolatry in India.—By the Marquess of Downshire, from the county of Down, for the settlement of the Tithe Question.—By the Marquess of Lansdowne, from the Dean and Faculty of Procurators in Glasgow, in favour of Mr. Rowland Hill's plan of Post-office reform.—By the Earl of Ripon, from Liverpool, against the encouragement of Idolatry in India; from three Individuals, complaining that they had suffered great loss and hardship in consequence of the Seizure of the Vixen.

Nabob of Oude.] Lord *Brougham* inquired whether there would be any objection to laying upon the table a copy of the subsidiary treaty which had been entered into with the prince who now occupied the throne of Oude?

Lord *Glenelg* declined laying the document before their Lordships, because, in fact, it had not been ratified by this Government, and could not therefore be regarded as a treaty.

Lord *Brougham* said, that was no reason for its non-production; for, whether ratified or not, he believed, that it had been acted on.

Lord *Ellenborough* said, that to assert, that there was no treaty in existence because it had not been ratified at home was not a correct representation of the fact. The treaty was ratified by the Governor-general, and certainly might be acted on. It would be a most extraordinary exercise of power if they were to annul or modify the treaty after it had been ratified by the Governor-general.

Lord *Glenelg* said, the President of the Board of Control had refused to produce this document, and the House of Commons had coincided in the propriety of that decision.

Lord *Brougham* could not see that any ground had been shown for withholding the treaty merely because it had not been ratified. If anything so monstrous should be disclosed in these papers as that they had at midnight extorted from their puppet an engagement, that he would at any time sign any treaty which they chose to dictate, and that such an engagement had been acted upon, unless Parliament was ready at once to abdicate all its functions of superintendence and control over the colonial and East-Indian administration of the empire, they were bound to insist on the production of such a document.

The Marquess of *Lansdowne* did not rise for the purpose of entering into the question as to any objection there might be to produce this paper. He was bound to admit, that there was on the face of this transaction what must naturally have attracted the attention of Parliament; but he was sure his noble and learned Friend would hear with much satisfaction what he had now distinctly to state, that not only did his noble Friend at the head of the government in India, immediately, on being informed of this treaty, express his disapprobation of the manner in which the promise to procure it had been drawn from the sovereign of Oude, but he also caused it to be intimated in the most explicit manner to that prince, that he was in no degree bound by the promise to sign such a treaty, and entirely relieved from any stipulations or conditions it imposed.

Lord *Brougham* thought that declaration amounted to little better than nothing. This poor man engaged, under duress, to sign any treaty that should be dictated to him, and what did it signify that Lord Auckland had said to him, "Whatever you may have signed is not at all binding on you?" The fact was, after that release he was found to have signed a treaty giving us seventeen lacks of rupees. Why did he sign or execute that treaty? He executed it *post hoc, ergo propter hoc.*

Lord *Ellenborough* entirely agreed with the noble and learned Lord in thinking, that the treaty should be produced, and that the person who transacted it should immediately have been recalled.

Subject dropped.

PRISONS.] The *Lord Chancellor* moved the Order of the Day for the House resolving into a Committee upon this bill. The object of the bill was twofold—first, to make prisons in borough towns having sessions of their own, and to put them upon the same footing with the prisons of the county; and also to give the borough justices within their respective jurisdictions the same powers with respect to the prisons as the county magistrates had. He did not anticipate any objection to this part of the bill. There was another part, however, to which opposition would probably be given, on account of the additional expense which it would have the effect of throwing upon counties, and also because a new subject matter was introduced. Under the 5th and 6th William 4th., the justices were empowered to make rules and regulations for the classification of prisoners. By the 13th clause of the present bill, they were also empowered to make rules and regulations, but an additional power was given them, which was power under the same authority and control as before, and subject to the same reference to the Under-Secretary of State. If upon being referred to him they were approved of, the same machinery which existed under the old law was made use of; and if the present prisons were not sufficient in point of magnitude or construction to enable them to carry the rules and regulations for the classification of the prisoners into effect, then the justices at quarter sessions were to have the power to make provision by presentment for the erection of new prisons of such form and structure as would admit of the regulations being carried into effect. That this provision would have the effect of throwing upon counties a great additional burden and expense he (the Lord Chancellor) was willing to admit; but, at the same time, he thought, if the regulations were proper and useful ones, considerations of expense ought not to be taken into account.

The Marquess of *Salisbury* complained, that a bill of such great extent and importance, involving so many interests, and which had been three years under the consideration of the Under-Secretary of State, should have been brought before their Lordships at so late a period of the Session. The bill was not brought up until the 24th of July, and it was altogether impossible, that their Lordships could be then prepared to enter fully into the consideration of a subject of so much difficulty and importance. The bill also introduced a new power upon a subject which was attended with considerable difficulty, and upon which great difference of opinion prevailed—he meant the separation of prisoners. If a further separation were desirable, as in his opinion it was, the experiment ought in the first instance to be made in a public prison, under the superintendence of the Under

Secretary of State. The present bill was objectionable in many other respects. One of the clauses in particular was most extraordinary, and altogether new. He alluded to that in which power was given to the justices to appoint as chaplain one not a clergyman of the Established Church. He hoped he had stated sufficient to satisfy their Lordships, that the bill ought to be postponed till next Session, and with that view he should move, that it be committed that day three months.

Lord *Lyndhurst* would support the motion of his noble Friend. The effect of the bill was in substance to enable the Under Secretary of State to establish a system of solitary confinement in every gaol throughout the kingdom. Every one knew, that there was not a single prison in any county of the kingdom adapted to that system. The consequence was, that every one of those prisons must be altered or pulled down, and a new one built in its stead, so that the Under Secretary of State would virtually have under the bill an uncontrolled power of taxation. That such would be the necessary consequence of the bill he hoped he should be able to satisfy their Lordships. As the law at present stood, magistrates had the power to make rules and regulations respecting the management of prisons, and these were then submitted at stated intervals to the consideration of the Under Secretary of State, who had the power each time to alter them and make such other rules and regulations as he should think proper. All the rules and regulations were, therefore, absolutely under the control of the Under Secretary of State. The person who could from time to time alter the regulations had clearly absolute power and control over them. Such was the state of the law as it at present stood. It was considered, however, that an order for separate or solitary confinement would not come within the rules and regulations, the making of which was sanctioned by the act. Fresh powers, therefore, became necessary, and accordingly a clause was introduced into the present bill, enacting, that any rules and regulations which might be made respecting confinement in separate cells should be considered as rules and regulations sanctioned by and within the meaning of the former act. That provision, in effect, came to this—that the Secretary of State might establish a system of solitary confinement in every prison throughout the kingdom. To give to one individual, and that individual a Minister of the Crown, power to establish throughout the kingdom a system of solitary confinement was an alteration in the former bill, and an augmentation of power never intrusted to any single individual. He (Lord Lyndhurst) did not mean to say, that the separate system might not be a proper system. It was still in its infancy; it was in controversy in America, and the question of the superiority of the one plan over the other had been discussed in a variety of publications, and was still going on. Were their Lordships prepared to establish the separate system, or in other words solitary confinement with additional labour, and nothing to make up for it but the use of books to such of the prisoners as could read? By the law, at present, it was said that solitary confinement could not be inflicted for a longer period than a month at a time, or three months in a year. The present bill contained no such limitation, so that a prisoner, after being in solitary confinement for one month, might the very next day be committed for another month, and so on from month to month through the whole year. He would not consent to leave in the discretion of any individual absolute power to establish separate gaols in this country—first, because he did not choose to intrust to any individual such immense and monstrous power, and also because, in addition to the objectionable character of the power, he would also have the absolute power of taxation without control. He knew from inquiries respecting the gaols of Middlesex, that the expenses of making the necessary alterations would be enormous. He, therefore, said, that at this late period of the Session, they had not time to make the necessary inquiries, and that a subject of so much importance ought not to pass hastily through their Lordships' House, but ought to receive full, mature, and deep consideration.

Lord *Wharncliffe* was also opposed to the bill. It would throw a great additional burthen upon counties, and the powers which it conferred upon the Under-Secretary of State were excessive and unconstitutional.

Lord *Brougham* agreed with his noble and learned Friend, that such extensive powers of taxation were objectionable. He thought there was some mistake about the matter, and that it was the intention of the framers of the bill, though that intention could not be collected from the words, to allow such of the present prisons to stand as might be made to answer the purposes of the bill. He did not mean to say, that anything of the kind was said in the bill, but it might possibly be the intention, and therefore the alteration might be made in Committee. If this were not done, he should oppose the bill: He had not heard enough to convince him that they ought to intrust such extensive powers to a Minister of the Crown. He did not think the Secretary of State ought to possess the power to alter and to aggravate the punishment which might be directed by the judges of the land.

The Earl of *Chichester* intreated of their Lordships to allow the bill to go into Committee. He did not think that it contained those extraordinary powers which the noble and learned Lord asserted that it did. He thought that in Committee they would be able to modify the separation clause, and if they did, he conceived that such an alteration would obviate the principal objections to the measure.

The Duke of *Richmond* contended, that all the objections to the measure might be got over by means of alterations in Committee. He hoped that some benefit would be effected by the bill, and he, therefore, should regret to see the present opportunity of passing it lost. He professed himself the advocate of the silent system with partial separation to such an extent as might be necessary for preventing contamination, and hoped that if the bill were committed they might be enabled to put back the clauses to the point recommended by a committee of their Lordships' House.

The *Lord Chancellor* said, that the observations made in opposition to the present measure did not contain a single objection to that portion of it which related to borough prisons; for the arguments which their Lordships had heard turned upon the construction which his noble and learned Friend put upon one of the clauses. The power of which his noble and learned Friend complained would be vested, not, as was said, in the Secretary of State, but in the person authorised by law to make rules and regulations. The bill certainly gave to the Secretary of State larger powers than he had before enjoyed, but yet he was not the person authorised by law to make regulations. By the 4th of George 4th, certain rules and regulations were to be made by the authority of the magistrates, and draughts of them were to be sent to the Secretary of State for his approval. If the prisons were not large enough, the Secretary of State could order larger gaols to be erected, and to that his power was limited. Unless the magistrates neglected to make the necessary rules, then, and only in such a case, could the Secretary of State himself issue rules and regulations.

Lord *Lyndhurst* replied, that by the 5th and 6th of William 4th, the magistrates at Quarter Sessions could make rules and regulations, but they were bound to transmit them to the Secretary of State. He possessed power to alter them as he thought proper, and to add to the rules and regulations so submitted to him. Surely it would not be denied, that if a certain person had the power to alter and add to certain rules and regulations, it was quite clear that he had absolute control over them. The magistrates at Quarter Sessions might suggest, but the Secretary of State could do as he pleased with the rules and regulations.

The Marquess of *Lansdowne* said, it certainly never was the intention of the promoter of the bill to confer upon the Secretary of State those large powers which the noble and learned Lord supposed it to give. The bill would merely give the power to the person who by law was authorised to make the rules and regulations. He should support the proposition for going into Committee with a view to amend the measure so as to remove all doubt respecting the powers which it gave, and this he thought might be effected by only expunging the word "add," for in the power of addition, as he thought, the whole of the objectionable powers lay.

Their Lordships divided—Content 32; Not-Content 33:—Majority 1.

Committee postponed for three months.

Foreign Slave Trade.] Lord *Brougham* said, that in the absence of his noble and learned Friend, the Chief Justice of the Court of Queen's Bench, he wished to make a motion to which he presumed there would be no objection. On the 10th of May last, the House of Commons agreed to an address to her Majesty, representing that the Slave-trade still continued with great intensity, and that they thought a general concurrence of the great powers professing Christianity necessary in a declaration that the Slave-trade ought to be punished as piracy, and praying that their wishes and hopes might be made known to foreign courts in such manner as to her Majesty might seem best. What he had to move was, that their Lordships do adopt an address to the same effect, in order the more to strengthen the hands of Government as regarded this matter. The noble and learned Lord moved the following address:—

"That an humble Address be presented to her Majesty, dutifully to submit to her Majesty, that the Slave-trade, which the Congress of Vienna most justly described as having degraded Europe, desolated Africa, and afflicted humanity, nevertheless still continues with great intensity; that, notwithstanding the various treaties and conventions which have been entered into by her Majesty and her royal predecessors with different powers for the suppression of this traffic, and notwithstanding all the endeavours of successive Administrations at home and of her Majesty's Ministers and agents in foreign countries, and of her Majesty's naval force employed in this service abroad, the trade has been aggravated in all its horrors; and that it is the opinion of this House, that a general concurrence of the great powers professing Christianity in a declaration that the Slave-trade, by whomsoever carried on, is piracy, and ought to be punished as such, is, under the blessing of God, one of the most probable means of effecting the abolition of that trade.

"That this House is further of opinion, that, in all treaties to be contracted between her Majesty and her allies, the concession of a mutual right of search of their commercial vessels respectively, would be another of the means likely to attain this most important object; and that this House most respectfully implores her Majesty to represent these their opinions, and wishes and hopes, in such manner as to her Majesty shall seem most likely to be effectual to her Majesty's several allies.

"That this House cannot refrain from expressing to her Majesty the deep concern with which they have observed, from the papers which her Majesty has caused to be laid before them, that Portugal has not yet fulfilled the engagements which she has taken towards this country, by concluding with Great Britain an adequate treaty for the suppression of the Slave-trade."

Motion agreed to.

HOUSE OF COMMONS,

Monday, August 6, 1838.

MINUTES.] Bills. Read a second time:—Tin Duties (Cornwall); Duchies of Cornwall and Lancaster; Exchequer Bills; Public Works (Ireland); Consolidated Fund; and County Treasurers (Ireland).—Read a third time:—Valuation of Land (Ireland); Bank of Ireland Repayment; Militia Pay; Stamp Dies.

Petitions presented. By Mr. MARTIN, from Tuam, against the monopoly of the Bank of Ireland.—By Mr. FIELDEN, from Hyde, Chowbent, Huddersfield, Leigh, Paisley, and Padiham, that Mr. Robert Owen may be heard at the Bar of the House in explanation of his principles of Social Reform; from certain Merchants and Manufacturers of Oldham, praying that Warehouses for Bonded Corn may be instituted in the great manufacturing towns; from Crompton, to the same effect; from Halifax, Elland, Heptonstall, Almondbury, Wadsworth, Hyde, Midgley, Thornton, Staniland, Queenshead, Mixenden, Northowram, Ambler Thorn, and Coldon Heptenstall, for Universal Suffrage, etc.; from Male and Female Inhabitants of the Borough of Maldon (Essex), and other Inhabitants of that Borough, for Amendments of the New Poor-law; and from Hand-loom Weavers of Norwich, for an Act to regulate the rate of Wages.—By Sir E. WILMOT, from the Clergy of the Archdeaconry of Coventry, against the Parochial Assessment Bill.—By Lord STANLEY, from the Diocese of Fermanagh, against the Encouragement of Idolatrous Ceremonies in India.

PENSIONS.] On the motion of the Chancellor of the Exchequer, the Pensions Bill was read a third time.

On the question that it do pass,

Mr. *O'Connell* moved, that the passing of the bill be deferred till to-morrow, in order that he might have an opportunity of bringing up a clause relating to Lady Westmeath's pension. It was quite impossible that any man could say a word in disparagement of that lady, but he thought, under the peculiar circumstances of her case, that her pension should not be continued during the lifetime of her husband. Lady Westmeath had lately passed through a most afflicting ordeal; she had obtained from an ecclesiastical court a decree of separation from her husband, on the ground of his cruelty against her. It was therefore, he thought, right that the pension should be suspended, inasmuch as it was in fact paid to her husband, not to herself. Sir John Nicholl, on decreeing a separation between the parties, had assigned Lady Westmeath, besides her pension of 385*l.* an alimony of 700*l.* a-year. Against that decree the Marquess of Westmeath had appealed, and the Vice-Chancellor before whom the case was heard, sustained the sentence of the inferior court as regarded the separation, but reduced the alimony to 315*l.*, on the ground that Lady Westmeath was in the receipt of a pension of 385*l.* a-year. Nobody could think it proper that Lord Westmeath should be rewarded by the amount of this pension for having acted with cruelty towards his wife. He contended, that the lady's income should remain intact, but that it should be paid by the person who had maltreated her, otherwise the continuance of the pension would only be a mitigation of a deserved punishment. It might be said, that this was a legal pension, being granted out of the Irish revenue. He was not disposed to dispute the accuracy of the opinion given as to these pensions by the Attorney-General and the Solicitor-General, in opposition to the views of the hon. Member for Middlesex, but he was of opinion that in peculiar cases the holders could be proceeded against by information or *scire facias,* and indeed a case of that kind had already occurred.

The *Attorney-General* was glad to find that the hon. and learned Member agreed with him in the opinion he had given respecting the Irish pensions, but on that very ground, he must see that such a clause as he suggested, would be inexpedient and even unjust. This was a legal pension, to which Lady Westmeath was entitled during her lifetime, of which nothing but an Act of Parliament could deprive her, and surely it would not be just to deprive an individual by an Act of Parliament of a vested right.

The *Chancellor of the Exchequer* resisted the proposition. If such a clause were permitted, it would overturn the unanimous decision of the Committee.

Motion negatived, the bill passed.

PLURALITIES.] The Lords' Amendments to the Pluralities Bill were taken into consideration.

Mr. *Aglionby* moved the restitution of what had been Clause three in the original bill, and which was omitted by the Lords. The object of the Clause was, to prevent persons holding a benefice of the amount of 1,000*l.* yearly value from holding along with it another of 500*l.* yearly value, and *vice versâ,* and by its omission, there would be no legal objection to persons holding two such pieces of preferment as Stanhope and Durham together.

Lord *J. Russell* agreed that the Clause was a very useful Clause, and regretted its omission. Hereafter it might be proper and necessary to legislate on the subject, but at present he was not inclined to disagree with the Lords' Amendment in this particular.

The House divided: Ayes 28; Noes 54:—Majority 26.

List of the AYES.

Archbold, R.
Brotherton, J.
Brownrigg, S.
Bryan, G.
Codrington, A.
Currie, R.
Curry, W.
Divett, E.
Douglas, Sir C. E.
Finch, F.
Hector, C. J.
Hill, Lord A. M.
Hutton, B.
Kinnaird, hon. A.
Lushington, C.
Morris, D.
O'Connell, M. J.
Pechell, Capt.
Phillips, M.
Pryme, G.
Redington, T. N.
Somers, J. P.
Somerville, Sir W. M.
Style, Sir C.
Thornely, T.
Wallace, R.
Warburton, H.
Yates, J. A.

TELLERS.

Aglionby, H. A.
Hawes, B.

List of the NOES.

Alston, R.
Anson, Col.
Ashley, Lord
Baker, E.
Blackburne, I.
Broadwood, H.
Bruce, Lord E.
Campbell, Sir J.
Chute, W. L. W.
Clayton, Sir W.
Eliot, Lord
Estcourt, T.
Ferguson, Sir R.
Freshfield, J. W.
Gladstone, W. E.
Harvey, D. W.
Hayter, W. G.
Hodgson, R.
Hope, G. W.
Hotham, Lord
Inglis, Sir R. H.
Kemble, H.
Labouchere, H.
Lemon, Sir C.
Lincoln, Earl of
Lowther, J. H.
Lucas, E.
Lygon, hon. Gen.
Lynch, A. H.
Macleod, R.
Mahon, Lord
Maule, hon. F.
Maule, W. H.
Morpeth, Lord
Murray, J. A.
Palmerston, Lord
Parker, R. T.
Perceval, Col.
Praed, W. M.
Praed, W. T.
Rice, rt. hon. T. S.
Richards, R.
Rolfe, Sir R. M.
Russell, Lord J.
Sandon, Lord
Somerset, Lord G.
Stanley, E. J.
Stock, Dr.
Surrey, Earl
Thomson, G. P.
Thornhill, G.
Vere, Sir C. B.
Verner, Col.
Wood, Sir M.

TELLERS.

O'Ferrall, M.
Steuart, R.

Amendment agreed to.

On the Lords' amendment for the omission of clause 62, relating to the appointment of additional curates in parishes where further spiritual aid was required, and where the expenses of such appointment were to be defrayed by the parishioners,

Mr. *Hawes* wished for the restoration of the clause and he moved to disagree with the Lords. The clause had received the general assent of the House of Commons, and ought not to be omitted.

Lord *John Russell* admitted, that the clause was generally approved of by that

House, but as it appeared from the discussion in another place that it might excite great jealousy amongst the curates originally appointed, he should support its omission.

The House divided, on Mr. Hawes' motion, Ayes 26; Noes 46;—Majority 20

List of the AYES.

Bowes, J.
Brotherton, J.
Bryan, G.
Clements, Lord
Codrington, Adm.
Currie, R.
Divett, E.
Duke, Sir J.
Finch, F.
Fitzroy, Lord C.
Hector, C. J.
Hutton, R.
Lefevre, C. S.
Lushington, Dr.
Lushington, C.
Pechell, Capt.
Phillips, M.
Ponsonby, hon. J.
Power, J.
Pryme, G.
Somerville, Sir W. M.
Stock, Dr.
Style, Sir C.
Tollemache, F. J.
Vigors, N. A.
Yates, J. A.

TELLERS.
Aglionby, H. A.
Hawes, B.

List of the NOES.

Acland, Sir T. D.
Bellew, R. M.
Blennerhassett, A.
Byng, rt. hon. G. S.
Dalmeny, Lord
Eaton, R. J.
Ellis, J.
Estcourt, T.
Etwall, R.
Fergusson, Sir R.
Freshfield, J. W.
Gladstone, W. E.
Gordon, Capt.
Hodgson, R.
Hogg, J. W.
Howard, P. H.
Inglis, Sir R. H.
Jones, T.
Kemble, H.
Lemon, Sir C.
Lucas, E.
Maclean, D.
Macleod, R.
Maule, hon. F.
Morpeth, Lord
Murray, J. A.
Parker, R. T.
Parnell, Sir H.
Price, Sir R.
Rice, rt. hon. T. S.
Richards, R.
Rolfe, Sir R. M.
Russell, Lord J.
Sandon, Lord
Seymour, Lord
Shaw, F.
Stanley, E. J.
Stuart, R.
Surrey, Earl of
Thomson, C. P.
Turner, E.
Vere, Sir C.
Vivian, J. E.
Wood, C.
Wood, Sir M.
Wood, T.

TELLERS.
Parker, J.
Troubridge, Sir T.

Lords amendment agreed to.

The other clauses of the Bill were agreed to, and a Committee was named to confer with the Lords upon differing from their amendments.

SPIRIT LICENCES (IRELAND).] On the motion that the House resolve itself into Committee on the Spirit Licences (Ireland) Bill,

Mr. *Shaw* repeated his objections to the bill, on the ground of the immoral effects of the practice it sanctioned. As Government must be convinced of the pernicious consequences of the practice, and as two years' warning had been given, with a clear understanding that no further indulgence would be granted, there was no reason for this Bill. He moved, that it be committed that day three months.

Mr. *O'Connell* supported the bill. There had been ten or eleven divisions on the bill already; and he thought the House ought not to countenance the system of opposition pursued by the right hon. Gentleman in regard to this bill. A Committee of that House had reported in favour of the grocers, and when it was proposed to take from them the privilege of selling spirits, a deputation from that body had satisfied the Government of the injustice of such a proceeding. The grocers in Dublin might be prepared for terminating their retail trade in spirits, but in the country towns an immediate prohibition would be productive of ruin to many, as they were not aware that such a measure was even contemplated. All they wanted was one year more, to enable them to take their capital out of this branch of their trade, and to dispose of the stock on hand. He might mention to the House, that not a single grocer had lost his licence for misconduct, and he did therefore hope, that they would consent to allow the bill to proceed.

Mr. *Lucas* would give his most determined opposition to the measure, as he believed the mischiefs of the system of permitting grocers to sell spirits could not be got rid of in any other way than by throwing out the bill. The hon. and learned Member for Dublin had stated, that no grocer had lost his licence for misconduct, but it was impossible to find the grocers guilty of improper conduct, because they had not the same power over them as over the keepers of public-houses.

Sir *W. Somerville* would give his vote in favour of going into Committee upon the bill, because he wished the grocers to have an opportunity of disposing of their stock; but he thought the system of permitting grocers to sell spirits ought to be put an end to.

The House divided. Ayes 35; Noes 25; —Majority 10.

List of the AYES.

Aglionby, H. A.
Archbold, R.
Bellew, R. M.
Blennerhassett, A.

Chalmers, P.
Dalmeny, Lord
Etwall, R.
Gordon, R.
Hector, C. J.
Hobhouse, T. B.
Howard, P. H.
Lushington, C.
Lynch, A. H.
Macleod, R.
Maule, W. H.
Morpeth, Lord
Morris, D.
Muskett, G. A.
O'Connell, D.
O'Connell, J.
O'Connell, M.
Parker, J.
Parnell, Sir H.
Pechell, Capt.
Pendarves, E.
Phillips, M.
Power, J.
Somerville, Sir W. M.
Stock, Dr.
Thornely, T.
Townly, R. G.
Vigors, N. A.
Wallace, R.
Wyse, T.
Yates, J. A.

TELLERS.

O'Connell, M. J.
Pryme, G.

List of the NOES.

Acland Sir T. D.
Alsager, Capt.
Brotherton, J.
Clements, Lord
Estcourt, T.
Fergusson, Sir R.
Freshfield, J. W.
Hawes, B.
Hodgson, R.
Holmes, W.
Inglis, Sir R. H.
Jones, T.
Kemble, H.
Lefevre, C. S.
Lockhart, A. M.
Lucas, J.
Praed, W. T.
Richards, R.
Rolfe, Sir R. M.
Russell, Lord J.
Spry, Sir S. T.
Thornhill, G.
Tollemache, F. J.
Vere, Sir C. B.
Vivian, J. E.

TELLERS.

Shaw, F.
Ellis, J.

Bill went through a Committee. The House resumed.

* * *

HOUSE OF LORDS,

Tuesday, August 7, 1838.

MINUTES.] Petitions presented. By the Archbishop of CANTERBURY, from Weymouth, Lewes, and other places, by the Duke of RICHMOND, from the Wesleyan Methodists of Edinburgh, Dalkeith, and Duke-street Chapel, Leeds, and by the Earl of CARLISLE, from Whitby, Newark-on-Trent, and other places, against the Encouragement of Idolatrous Ceremonies in India.—By the Duke of RICHMOND, from the Guardians of a Union in the county of Buckingham, in favour of the Poor-law Amendment Act.

THE EARL OF DURHAM'S ORDINANCES.] Lord *Brougham* said, that having looked over the papers relative to Canadian Affairs, which had been laid on the Table, he must reiterate what he had before asserted, that the ordinances issued by the Earl of Durham were wholly illegal. He had on a former occasion declared, that to be his opinion, and he was now perfectly convinced, that his opinion was a correct one. It was quite clear, that though the power given to Lord Durham was very great, yet, that no power had been bestowed on him by act of Parliament to inflict pains and penalties on individuals who had not previously been brought to trial. The noble Earl was empowered to issue ordinances for the good government of the province — to make general laws for the good government and welfare of the colony; but, from the beginning to the end of the bill by which he was intrusted with this power, there was a grand exception—which exception tied up the Governor of Canada from altering any act of the British Parliament. Now, in the very outset he found, that one of the recently-issued ordinances contravened the provisions of the 7th of William 3rd, " for the trial of all treasonable offences." If Lord Durham had a right to dispense with that act —if he had a right under the powers which had been granted to him, to condemn in every case as traitors, men against whom no witness had been examined, into whose alleged offence no inquiry had been made—if he could do this, setting at nought all those prudent and salutary safeguards which the law had provided for accused parties, then there was nothing to prevent him from interfering with any other law or enactment of the Parliament of England. It might be alleged, that the parties thus proclaimed had absconded. But what was the course adopted by Parliament in the rebellion of 1715? What was the course pursued by Parliament with respect to the parties connected with the projected assassination of King William? The accused persons were absent, and Parliament passed a bill of attainder against them. But witnesses were examined to convict them, a solemn inquiry took place, and all the difference between that and a regular trial was, that they were convicted before Parliament, and not before the ordinary court. If the Governor of Canada in Council was intrusted with the power to make laws, they ought to be drawn up in a manner as precise, clear, definite, and intelligible, as if they were the work of the Legislature itself. But let their Lordships mark the whole course of this marvellous proceeding. Lord Durham's ordinance did not begin, as in the case of a bill of attainder, by declaring, " that A, B, and C, had been guilty of high treason;" but without any such allegation, it directed, that such and such persons should be carried to Bermuda, and if they left their place of banishment, then they should be considered guilty of high treason. This was prospective high treason—high treason, not for any act committed in Canada, but simply for leaving Bermuda. Such a proceeding was opposed to the statute of the 25th of Edward 3rd, which defined what should be considered as high treason, and limited the offence to very few cases indeed. Again, there was another part of the ordinance which called for especial notice. Twelve or fourteen persons were named as the murderers of lieutenant Weir, and it was expressly stated in this official document that nothing contained in any proclamation of her Majesty should be held to extend to the cases of those persons. So, that if her Majesty issued a proclamation of pardon (which she had a right to do, unless the Governor of Canada was viceroy over her Majesty and could control her)—if she issued such a proclamation (which might be, for aught he knew, the most wise and salutary course), yet was it declared by the ordinance, that nothing contained in any proclamation issued by her Majesty should extend to this particular offence. All this was done, he supposed, under colour of the coercion act. But what right did the coercion act give to adopt such proceedings as these. The coercion act did not extend to Bermuda. But the Governor of Canada assumed the power of transporting to Bermuda, and of visiting with the penalty of treason those who escaped from their place of banishment. Lord Durham he knew was not a lawyer, neither was Sir C. Paget, who was, no doubt, a very meritorious officer, and, therefore, they ought to have been cautious in the framing and promulgating of ordinances. But Lord Durham said, "Under all the circumstances, I determined on sending those persons to Bermuda" ("which," his Lordship might have added "I had no power to do"), "where they could be placed under a strict and severe surveillance." Now, he would advise the Governor of Bermuda not to attempt to place any of these people under a strict and severe surveillance; for if he did, he would render himself liable to an action for false imprisonment. The Governor-general might just as well have passed a law for the exercise of this system of surveillance towards those parties in the county of Middlesex, or the city of Westminster. The penalty, be it observed, was not confined to the appearance of these people in Canada, if they escaped from Bermuda; it was to attach to them if they were found at large anywhere. Even if they came to London they were held to be liable to punishment. He contended, that no state necessity could be shown for such an ordinance. It was a mere wanton display of power. It was melancholy to think, that the monstrous powers granted to the Governor of Canada should be used in such a manner. But what he had stated, sufficiently proved the recklessness of the way in which the noble Lord and his Council had exercised them. It was not possible, when such extensive powers were granted, to use them with too much care, and caution, and circumspection. But these ordinances manifested in the noble Earl no feeling of that description. It was no fault of his, that he felt it necessary to call their Lordships' attention to these matters. They were told, when it was proposed to grant extraordinary powers to the Governor-general of Canada, and when the danger of granting such extraordinary powers was pointed out and insisted on, that no mischief could result from such a measure, because all the proceedings of the Governor-general would be subjected to the observation and superintendence of Parliament. That such observation, scrutiny, and superintendence were most necessary, and were most clearly called for was now perfectly apparent. He should say nothing of twenty-four sentences having been passed on individuals contrary to a regulation of council in one day, but he must advert to the appalling fact of fourteen persons, and M. Papineau, making fifteen, being adjudged to suffer death, if they appeared in Canada, not one of those individuals having been previously tried. Such a proceeding was contrary to every principle of justice, and was opposed to the genius and spirit of English law, which humanely supposed every accused party to be innocent until he was proved to be guilty.

Lord *Glenelg* said, that with respect to the first ordinance to which the noble and learned Lord had alluded, and which had reference to transportation to Bermuda, if, as the noble and learned Lord asserted, it was illegal, it could not be of any avail. In looking at the whole of this question, the object for the House to consider was, the purpose for which this enlarged power was granted to the Earl of Durham, and the effect which had been produced by the mode in which it had been exercised. That purpose unquestionably was to secure the peace and tranquillity of Canada, and to effect that object, regulations had been passed to prevent the return of certain persons to Canada, unless they gave security for their future good conduct. There was nothing in this incompatible with the object to effect which Lord Durham went out to Canada. His Lordship went out for the pacification of that colony, and for the purpose of closing as soon as possible those scenes of distress, of strife, and of contention, which had been so long exhibited there. It was for that purpose that Lord Durham proceeded to Canada; and if he had issued ordinances which tended to effect that purpose, he deserved praise, and not censure. He repeated, that the great point to be considered was, the object to effect which Lord Durham was armed with those powers; and he would confidently assert, that in Canada, public opinion was decidedly in favour of the course which Lord Durham had adopted. That noble Lord had to consider the situation of the prisoners in Lower Canada, men who were guilty, or were supposed to be guilty, of very high crimes. It was a very delicate and difficult task for his Lordship. He had to decide whether the parties should be visited with the extremity of a severe law, or be treated with clemency and forbearance. He chose the latter course, and gave to those who pleaded guilty a sentence as lenient as the circumstances warranted. This, he had reason to know, from persons who came from that country, had afforded the utmost satisfaction to all parties. The difficulty of the situation in which Lord Durham was placed must be obvious to every person who considered the state of Canada. On one side parties were calling for severe measures—were demanding extreme punishment against the offenders, while, on the other, many individuals were anxious for an entire amnesty. Lord Durham adopted a middle course, and when his decision was announced, it gave general satisfaction throughout the colony. With respect to those persons who had absconded from the province, whatever might be alleged on that point, there was no doubt on his mind that acting on the principle of prudence, the course which had been taken was the wisest and the best. He thought that the course adopted by Lord Durham was calculated to restore and to secure the peace and tranquillity of Canada. As to the second ordinance to which the noble and learned Lord had adverted, as contrary to the law of England, he supposed that every minute municipal regulation was not expected to be strictly and to the letter in accordance with that law, especially when such a state of things prevailed as that which Lord Durham had to encounter. He believed, that the proceedings taken by Lord Durham were approved of by every reasonable, unbiassed, and dispassionate man in the colony; and he could not agree with the noble and learned Lord, great as his authority might be, when he declared that those proceedings were illegal.

Lord *Brougham* said, that all which the Earl of Durham wished to do he might have effected without breaking the law. If Lord Durham had said to parties accused or suspected, "I won't bring you to trial if you conduct yourselves properly," then he would have done legally for the peace and tranquillity of the colony, all which he was said to have done, but which he had done illegally. Lord Durham did not declare these to be traitors, but he said, "I shall send you to Bermuda, and if you leave that island, you shall be adjudged guilty of high treason? But how could his lordship declare them guilty of high treason? What legal or justifiable right could he plead for doing so, when they never had been arraigned, when they never had been tried, when they never had been found guilty of that offence? Such a proceeding was never known even in the worst times of this country. Even then individuals were served with notice; they were informed of what they were accused; but the people designated in Lord Durham's ordinance were to be declared guilty of high treason, not for what they did in Canada—no, no, but for coming from Bermuda, where the Governor-general had no right to send them, and appearing in Canada. The noble Lord (Glenelg) asked, "Was it to be supposed, that Lord Durham and his council were not to have all the powers of the Legislature of Canada?" He denied, that Lord Durham had any such power. At all events he was clearly forbidden to alter any statute of the Parliament of England. If it were said, that the words of the Act enabled the noble Earl so to proceed, he must regard such an assertion as a mere quibble. Was he to be told, because the words of the Act were so wide and comprehensive with respect to the power of issuing ordinances "for the peace, welfare, and good government of the province," that therefore Lord Durham was authorised to proceed as he had done? Would any man say, that this provision gave Lord Durham the right to hang individuals, or to visit them with pains and penalties, they not having been brought to trial? He should like to have the opinion of the learned judges as to the construction that was to be placed on this Act. If one of them, even one of them, was of opinion that Lord Durham's construction was a correct one, he should be exceedingly surprised. He was quite confident, that their Lordships never intended to grant any such power. They had, however, to deal not with what their Lordships intended to do, but with what they actually did, by this act. And, if any one of the judges who were in the habit of construing acts of Parliament, declared that the Act in question authorised the steps taken by the Governor-general of Canada, then he would at once acknowledge that he was wrong, and would, of course, give up his argument. He had consulted some of the best lawyers in Westminster-hall on this point, and they did not express the shadow of a doubt on the subject. If the noble and learned Lord on the Woolsack declared, after the exception which he had pointed out, that these proceedings were legal, he would be ready to reconsider his opinion. But he must say, that he would not be ready on the authority of a Minister of the Crown, speaking under the pressure of debate, or on the authority of an equity lawyer, whose attention had not been turned to the consideration of questions of this nature, to forego or give up his deliberately-formed opinion. What did the Act say, with respect to the laws which Lord Durham and his council were empowered to make? It expressly set forth, "Nor shall it be lawful by any such law or ordinance to repeal, suspend, or alter, any provision of any act of the Parliament of England." Now, though the Earl of Durham and his council could not repeal the Act of Edward the 3rd, or the Act of William the 1st, yet they seemed to think, that they might arrive at the same end by a different road —namely, by making in each particular man's case a law contrary to those statutes. Was that consistent with the principles of English law? If her Majesty's Ministers supposed so, he wished them joy of their legal knowledge. Lord Durham was not, he knew, a professional man; but he had a council, and he did complain that that council should have sanctioned those ordinances. Lord Durham had appointed a Special Council: the Secretary to the Government was a lawyer; he was the legal adviser of the Special Council; and he blamed that Council, who might have availed themselves of legal assistance, more than he did the Earl of Durham, for the promulgation of those ordinances. He knew perfectly well, that Lord Durham was in a very peculiar situation; and he felt for the difficulties in which the noble Earl was placed, as much as the noble Lord. But other and greater considerations impelled him to bring this subject under the consideration of their Lordships. He was anxious for the best interests of that colony; he was anxious for the credit of the government of that colony; he was anxious for the peace and tranquillity of that colony; and he would say, that if any man were to rack his brain for the purpose of discontenting, and not contenting, a colony, for the purpose of undoing all which Lord Durham had been commissioned to do, he could not have hit upon a more effectual scheme, or a more certain plan for accomplishing that purpose, and for prostrating all those hopes and expectations which had been held out of tranquillizing Canada, than by making and publishing those most obnoxious ordinances which bore the impress of ignorance, of haste, of a total neglect of what was lawful, and of an anxious disposition to do that, for the doing of which not one particle of law, or of justice, or of equity, could be pleaded.

Viscount *Melbourne* admitted, that the power to be exercised by the Earl of Durham, in conjunction with his council, that council to be appointed by him, was of an extraordinary and most extensive nature. But their Lordships would consider, in examining this subject, that the circumstances which called for that power, and under which it was granted, were also of a very extraordinary character. He asked them, to consider the situation and circumstances of the colony; he called upon them to reflect on the difficulties with which Lord Durham had to contend, and to recollect what he had stated on a former occasion, that, being on the spot, his noble Friend must be much better acquainted with the whole of the circumstances, and more aware of the measures which it might be necessary or expedient to adopt, than any of their Lordships could be expected to be. He must say, it was not convenient; it was not expedient; it was not fair; it was not just—he did not mean to Lord Durham—it was not just to themselves; it was not fair to the steps they had already taken—it was not just to the interests of this great empire, to consider these measures in such a manner as to suffer themselves to be too much struck by any anomaly which might appear on the face of them, or by any disparity which might exist between the practice in Canada and in this country in a settled state of society, in times of perfect tranquillity, without peril and without danger. If they considered, that those powers had been imprudently, unjustly, and improperly exercised—if they thought they had been exercised in such a manner as to hazard the interests of this country in that part of the world, it would, unquestionably, be wiser for their Lordships to interfere decisively, in order to prevent such a course being persevered in. He did not understand the noble and learned Lord to propose that mode of proceeding; but if their Lordships did not see ground for interfering in that manner, then, he said, there was but one other course—to exercise some confidence, to place some reliance, instead of constantly interrupting proceedings by perpetual comments on them, weakening their own authority and the authority of Government, by condemnations which they did not mean to follow up. All Governments, it was most true, had their faults and their errors, their *ingenita vitia;* and in consequence of party strife, in consequence of political attacks one upon another, in consequence of personal dislikes and animosities, the enemies of the country, whether foreign or domestic, always found their greatest assistance and encouragement in the bosom of the legislative assemblies of the country. That had always been the case; and certainly it was a very great misfortune. The noble and learned Lord who sat on his right hand, was always twitting and reproaching him for his ignorance of the law; he would not, therefore, venture to say anything on the law of the case upon the present occasion. Indeed, it was perfectly useless that he should do so; because, undoubtedly, his opinion could carry with their Lordships no authority or weight whatsoever. But he begged leave to assure their Lordships, that with the exception of that part of the ordinances which related to the island of Bermuda, where there was an evident mistake in the Governor-general and council, erroneously supposing that their power extended beyond the given bounds of their own jurisdiction, he believed the whole of the remainder of the ordinances were perfectly legal, and warranted by the powers which Parliament had committed to Lord Durham.

Lord *Ellenborough* was glad it had been admitted by the noble Viscount, that part of the ordinances relating to the transportation of the eight persons to the island of Bermuda was altogether unlawful; it appeared however to him that the latter part of those ordinances, with respect to those persons who were to be punished on their return to Canada, was also contrary to act of Parliament, contrary to the law of England, contrary to the 7th of William III., to the 14th of George III., and to the provisions of the act passed at the commencement of the present session. It was quite true that very great powers were delegated by that act to the Governor General in conjunction with his council, and it was likewise quite true that they could not in all cases judge of the expediency of the measures which the Governor-general in council might adopt; but the objection taken by his noble and learned Friend, in which he altogether concurred was not merely that those acts were inexpedient, unjust, and calculated to do a great deal of harm instead of good, but that they were unlawful. This objection was by far the most important; because, whatever popularity a measure might enjoy at any particular moment in that or in any country, if in itself unlawful, it must ultimately produce resistance on the part of the people. He felt perfectly confident, if it were the desire, as it must be, of Lord Durham and his council to govern Canada with advantage, they would act within the Parliamentary provisions under which they derived their powers in the most constitutional manner. The further they departed from the true principles of the constitution the more the danger was increased. He was confident that in this instance, as in any other, it would be apparent that the smallest deviation from constitutional principles on the part of a constitutional Government was fraught with danger. Governments having another origin might venture on courses consistent with despotism, but a constitutional government never could do so without injury to its subjects and great danger to itself. With this conviction he had joined his noble and learned Friend in pressing on their Lordships, attention what had recently been done in Canada; he should continue to do so, because he was convinced it was their duty to supply by their Parliamentary vigilance, as far as they could, the want of that constitutional government which they had been induced to take away. The more their observations and arguments led the Government of Canada to take that course which was most consistent with the constitutional principles of this country, from which it derived its origin, the more would they in fact, be contributing to the benefit of England and the tranquillity of Canada. And he really hoped he did not understand the noble Baron at the head of the Colonial Department in one argument he put forth, as if he were disposed to justify measures admitted to be in some material points contrary to law, on the ground of their expediency and necessity under the circumstances in which Canada was placed. That was the argument which justified all tyranny—an argument which had been repudiated at all times in this country, and which he trusted there was spirit enough left still to repudiate, notwithstanding the grave and solemn tone of the remonstrances uttered by the noble Viscount at the head of the Administration, deprecating all observation of his government in Canada, because that observation could not be made without the greatest injury to a Government which had violated the constitutional principles on which it should have acted.

Lord *Brougham*—I have been told by the noble Viscount that lawyers have been found to say that these acts are legal; I beg therefore to give notice that I shall, when this House next meets, move for a copy of their opinion; and I now move for the date at which Sir Charles Paget first attended the Council, inasmuch as he was not on the spot when it was formed and it may turn out that only four instead of five were present when those ordinances were passed. I never till this night heard, and I did expect that in this ouse, the highest court of justice in the kingdom, in this Parliament, the temple of English liberty, I never should have heard the ears of your Lordships outraged and insulted by the principles which the noble Viscount has promulgated—that the more extreme the powers are which you have felt it necessary and deemed it your duty to confide to a governor, the more extravagant the authority which your coercion bills have reposed in his hands, the less watchful it becomes you, the senate of England, to be, how he exercises those extraordinary powers; that if an ordinary privilege is conferred on him, if an everyday authority is communicated to him—if he goes out with the law of England, common and statute, to administer by the powers known to that law—then, indeed, you may scrutinize—then you may watch, and if he should overstep the ordinary restricted limits of that common authority, then it is the duty and the province of Parliament to interpose; but that when you arm him with dictatorial power—when you say all law shall be silent except that which you enable him to make—when you tell him he shall have legislative powers with a very slight restriction and within the amplest conceivable limits (but still not without some restriction, not without some limits, as the very act under which he derives his authority plainly attests)—the more extreme the powers, the more extravagant the privileges with which you arm him, the more it becomes you to shut your eyes and fold your arms, and sit quiescent, while he exceeds those excessive powers. I should humbly have thought, the more power was given the more vigilance was required as to the manner in which it is exercised; and I have always hitherto been taught to believe, that the larger the powers conferred on any officer, the less excuse has he for taking more than is given him, and exceeding the ample authority already placed in his hands. Then came another general observation on the evils of a popular government, from the head, too, of a liberal Administration, from the representative of Whig principles in this country. A popular government, like all others, has its evils; who denies it? But I was not prepared to expect, that that should be set down among the mischiefs which I reckon the greatest duty, the highest benefit, the most ample advantage, the consummate glory of a popular constitution—namely, that it abhors arbitrary power, that it courts publicity and investigation, that it challenges inquiry, that it defies opposition, that it stands on its own merits, and above all, never seeks to skulk in the recesses of arbitrary power, to escape from scrutiny—above all, to overrule the principles of justice and of known law, by planting in the place of known defined law, that wretched substitute which consists in law vague and unknown; and if anything yet more alien to the principles of a free constitution can be imagined, it is, that expediency should be pleaded as an extenuation for what cannot be defended, namely, illegal acts, and above all, that the expediency should be most pressed upon us, the ampler, the more extravagant the powers with which the wrongdoers were, for the time, invested. The noble and learned Lord then alluded to the charge which had been brought against him of being actuated in his references to this subject by personal animosity and a factious spirit. He had resisted the passing of the late Act from the very first; he had solemnly protested against its being made law; and to show, that he had no personal feelings of vindictiveness to gratify by attacking the conduct of Lord Durham in his absence, he had, on the contrary, stood forward on a previous occasion, to defend him, even when deserted by the noble Viscount in the case of the appointment of Mr. Turton. Under these circumstances, he defied all the charges which might be levelled at him, that he had allowed party feeling or personal influences to guide his conduct with respect to this question. He deemed it a question of high interest, of vast importance to the peace of Canada, to the credit of the law, to the credit of that House, to the credit of the Government itself. The noble Viscount justly assumed, that he did not mean to move an address for the recall of the Governor, and to stop his administration in the outset, which might give rise to very great evils, of which he would not undertake the responsibility; there was a great difference between that and saying, they must shut their eyes and fold their arms, and do nothing. He was neither prepared to remove Lord Durham, nor to create him absolute in Canada, to put him above all law, and allow him to supersede the very authority which sent him there. So far from being against Lord Durham, so far from being hurtful to him, these discussions, which the noble Viscount said, had been prematurely, but he maintained necessarily, indispensably, unavoidably entered upon, by calling his attention to the fact of his not having vested in him absolute discretionary powers, would be the best thing, the most wholesome thing, the safest thing, which could be desired for Lord Durham himself.

The Duke of *Wellington* believed, that there was no question before the House at present. The noble and learned Lord had given notice of a motion for to-morrow.

Lord *Brougham:* I have moved for the date of Sir Charles Paget's attendance at the council.

The Duke of *Wellington* certainly could not but agree with the noble and learned Lord, that those parts of the ordinance which the noble Viscount himself admitted to be illegal, were fit subjects for inquiry in that and in the other House of Parliament, and not only fit subjects for inquiry, but it was absolutely necessary, that Parliament should inquire into them, and apply a remedy. It was impossible to say what the consequences might be. He must say, that until he entered that House that evening, and had received from his noble Friend near him (Lord Ellenborough) a paper which he held in his hand, he was not aware, that the noble Earl, the Governor of Canada, had stated in his dispatch, that he had adopted transportation to Bermuda, because he did not think it right to transport them to a convict colony. It appeared to him, that the noble Earl was not at all aware of what he was doing. It really appeared to him, that some steps ought to be taken in this country to set the Government there right upon transactions which appeared to be totally and entirely illegal. He agreed with the noble Viscount, that it was not right to come there night after night, to attack the Earl of Durham; but when there was a case of this description, in which the conduct of the Government in Canada was positively illegal, it was absolutely necessary that this House and the other House of Parliament should take the subject up, with a view of adopting some means to set the Government there right upon this subject, and to apply a remedy. He saw it stated by his Excellency, in a paper laid on their Lordships' table, that the measures which he had taken had met with the entire approbation of Sir John Colborne, and the leaders of what was called the British party in Canada. Now, he thought it extremely improper, that a person to whom the public were so much indebted for the state of things as they were found in that country by the Governor-general should be charged, in connection with the leaders of a party, with approving of the measures taken by his Excellency. Sir J. Colborne had filled a high situation in that country with credit to himself, and advantage to his Sovereign, and his name ought not to be dragged in on such an occasion, in the way in which it had been used. He hoped and trusted, that the noble and learned Lord would bring forward this question, with a view to apply a remedy, as that was the object for which they ought to look; and when once that was done, there would be no necessity for attacking the Earl of Durham day after day, and these discussions would be at an end.

Lord *Glenelg* said, that with regard to the noble Duke's observation about Sir J. Colborne, he must say, that he had not the slightest conception that it was intended, in what the noble Duke had read, that they should apply to Sir J. Colborne as connected with the leaders of the British party. He had never understood it so, and until the noble Duke had suggested the idea, he had never heard any allusion of the kind, nor did he conceive it possible that it could be so understood. What he understood was this, that the measures of his Excellency had been approved of by Sir J. Colborne, and also by the leaders of what was called the British party, and he firmly believed, that that was the sole intention of his Excellency. He conceived it impossible to imagine that these expressions could be taken as connecting Sir J. Colborne, with the leaders of the British party, because it was well known, that Sir J. Colborne kept aloof from all parties. His loyalty and attachment to this country were well known both in Upper and Lower Canada, where, in the most critical and difficult circumstances, when party spirit raged on both sides—the one party calling itself the liberal party and the anti-British party, the other the British party —in the midst of their struggles he said, distinctly, that Sir J. Colborne, standing at the head of the Government, kept aloof from all interference, or even the suspicion of taking a party view of these transactions. This was only a tribute that was due to that excellent and gallant Officer; it was a tribute from his own strong feelings, so strong, that he never could have consented to produce the paper in question if it could have been considered as connecting Sir J. Colborne with any party of whatever description; and he was persuaded further, that the noble Earl who wrote the letter had never had any such intention when he expressed himself in those terms. It was contrary to the whole course of his correspondence which related to Sir J. Colborne; it was contrary to the impression uniformly conveyed of his feelings in that respect, as it was contrary to the real character and conduct of Sir J. Colborne himself.

Lord *Lyndhurst* said, that it was not his intention to enter into the discussion of the legality or illegality of the conduct of the Earl of Durham upon this occasion, inasmuch as his noble and learned Friend had given notice of a motion, when the whole subject would be submitted to the consideration of their Lordships. But he rose for the purpose of impressing upon their Lordships the absolute necessity of coming to a decision, and a speedy decision, upon the legality of this matter. This ordinance might have been acted upon. It might have been already acted upon. A party might have been found at large, he might have been seized, brought within the jurisdiction of the courts in Canada, already tried, and he might already have suffered punishment. It, therefore, became necessary for them, without delay, to come to a distinct and precise understanding upon the legality or illegality of this measure, and to guard against the consequences of mistake. He, therefore, trusted, that his noble and learned Friend would bring forward his motion at the earliest possible period at which the subject could be submitted to the consideration of their Lordships, in order that they might have an opportunity of pronouncing, not merely with respect to the legality or illegality of that part of the ordinance to which the noble Baron (Lord Glenelg) had referred, and the illegality of which had been admitted, but also with respect to the point to which the noble Viscount (Viscount Melbourne) had referred, and which he stated distinctly, that he considered to be legal upon the highest legal authority in this country. He would impress upon their Lordships, therefore, without delay, to take this subject into consideration, to guard against the mischievous consequences that might result from these ordinances being acted upon, and afterwards pronounced illegal.

Lord *Brougham* said, he would take the earliest possible opportunity to bring this subject before the House. There was another reason why it was impossible but that some step should be taken, as this act gave judicial power of punishment without trial—of passing, *privilegio*, private and personal laws, acts of attainder, and bills of pains and penalties, as well as mere rules and regulations. If this had been stated at the time the bill was before their lordships, they would have said, that they never meant to do such a thing, and would not give any such power. His opinion was, that the act did not give that power. That was also the opinion of those whom he had consulted of higher authority and weight in Westminster-hall. He thought that the best course would be to introduce a declaratory act, which he would do on the earliest convenient day, to explain, define, and limit the power. He would now move for a return of the date at which Sir Charles Paget, Colonel Cooper, and Sir James Macdonnell first attended the council of his Excellency, the Governor-general of Canada; also which of the councillors were present on the 28th of July, when the ordinance was made.

Motion agreed to.

MUNICIPAL CORPORATIONS (IRELAND).] Viscount *Melbourne* moved the Order of the Day for the House taking into consideration the amendments made by the House of Commons in this bill, and their reasons for dissenting from their Lordships' amendments. When these amendments were last under the consideration of their Lordships, he took the liberty of stating, that some of these amendments would probably not be concurred in elsewhere, and of expressing a hope, that any alteration which he introduced into them would be received by their Lordships in a spirit of candour and fairness, and that some of them, at least, they would be disposed to admit. It was not his intention to go into a general statement of the amendments. The most convenient plan would be to consider them as they arose, and he should therefore move them in the order in which they stood.

Amendments to be read.

Viscount *Melbourne*, in moving, that their Lordships agree to the proviso, added by the Commons to Clause B, for the purpose of enabling the lord-lieutenant to alter the boundaries of any borough which he thought might require alteration, observed, that their Lordships had ingrafted upon the bill the whole of the provisions which related to boundaries. He thought, it was trying the patience of the Commons pretty well, to send them down the bill with an entire new bill added in the middle of it.

Lord *Lyndhurst* thought, that it was much more convenient to define the boundaries in the present bill, than leave it to be done by a separate enactment. Now, what was the course which their Lordships pursued in defining the boundaries in the present bill? They took the report of the Government Commissioners — a report sanctioned by the Government itself, and upon which a noble Lord, a Member of the Government, founded the bill, which he introduced in the other House. That bill was not carried through, so they took as boundaries the lines pointed out by the Commissioners. Could any thing be more fair and reasonable? The noble Viscount opposite suggested, that, contrary to what they did in the English Municipal Bill, and also in the Scotch, they should leave the defining of the boundaries to the advice and discretion of the Privy Council. It was impossible, that their Lordships could accede to such a proposition. The amendment, gave the Lord-lieutenant the power, not only to alter the boundaries, but also to make a new distribution of the wards. The Lord-lieutenant would not exercise the power himself, but it would be handed over to Mr. Secretary Drummond, and Mr. O'Connell, who would, of course, alter the boundaries, and make a distribution of the wards according to their own views. He therefore suggested to their Lordships the utter impossibility of agreeing to such an alteration.

Lord *Plunkett* was unable to comprehend how the noble Lord could say, that the Privy Council of Ireland was under the direction and control of Mr. O'Connell. They were the sworn officers of the Crown, and did he, or did any one suppose, that they would sacrifice their sworn duties? Was it fair to say, that they could not be intrusted with the performance of the duties which this bill gave to them?

The Earl of *Wicklow* said, that the persons who were to settle the boundaries under the act, would be appointed by the Government. That would, therefore, become a matter of patronage, and from past experience, he should say, would probably be under the direction of the gentleman, whose name had just been mentioned. That of which he thought just complaint could be made, was, that the bill had been introduced without the preliminary steps having been taken which were necessary to the preparation of such a measure. He thought it would be much better to have a new bill in the next Session for settling the boundaries, than agree to such an amendment as that which was then sent to them from the Commons.

The Duke of *Richmond* regretted to hear such frequent mention of the name of Mr. O'Connell, for it had the effect of making that gentleman appear of much greater importance than he really was. He thought, on the whole, that it would be much better to postpone the measure till the next Session of Parliament.

Motion negatived, and the Commons amendment disallowed.

Viscount *Melbourne* moved, that the next amendment of the Commons be agreed to, that which fixed the qualification at 8*l.* He would not trouble their Lordships with any remarks upon the subject, for they must all be already aware of the arguments on both sides of the question. He hoped, that they would not persevere in the absurdity of seeking to establish the larger qualification in the poorer country.

Lord *Brougham* said, that he still adhered to his former opinion—indeed, he thought, that instead of 5*l.*, the qualification should simply be, as in England, a household qualification.

The Earl of *Wicklow* understood the amendment to be an 8*l.* qualification with a rate, and he was pleased to find, that the other House had acted in so conciliatory a spirit. It was his opinion, that their Lordships ought to meet the Commons in the same spirit, and agree at once to the amendment.

Lord *Ellenborough* considered, that the mode in which the Commons effected the change, was objectionable, and he would rather take the original proposition, than the amendment now before them.

Their Lordships divided.—Content 67; Not Content 144: Majority 77.

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Brecknock
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NOT CONTENT.	CONTENT.
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Ravensworth	Wrottesley
Rolle	Suffield
Rutland	Anglesey
Saltoun	Segrave
Sheffield	Lovat
Sinclair	Besborough
Skelmersdale	Hamilton
Talbot	Leitrim
Thomond	Thanet
Tweeddale	Gardner
Wilton	Charlemont

Commons amendment rejected.

On the Clause relating to the administration of charity trusts.

Lord *Lyndhurst* said, that they should insist on their amendment.

The Marquess of *Lansdowne* inquired, whether it were the wish of noble Lords opposite, to confer the administration of these charities upon the present corporators for ever?

Lord *Ellenborough* denied, that such was their wish or their intention, but he did think, that until Parliament should otherwise provide, it would be better to leave them in the hands of those to whose direction it was the intention of the donors that they should be intrusted, than that they should be placed in the hands of the noble and learned Lord opposite (Lord Plunkett), who must be totally unacquainted with persons, and local interests, and must necessarily be surrounded by persons who had political and personal partialities to gratify, and who would negociate for the appointment of their friends to these offices. He certainly thought, that perverting charities to political purposes, was little less than sacrilege. There was no principle in which he would concur more readily than that; but till Parliament could devise a better system of charity administration, he thought that it would, upon the whole, be better to leave these trusts in the hands of the present corporators.

The *Lord Chancellor* quite agreed in the doctrine laid down by the noble Baron, but he doubted, whether he was proceeding in a way to effect his object. The charity trusts would not vest in the corporation, in whom the donors intended that they should be vested, but in the ex-corporators, mere individual persons, in whom it was never intended that they should vest. The noble Baron seemed to think, that it would be easy to devise some plan for the better administration of these charities in which Parliament might concur. But the English Municipal Bill had been for some time the law of the land, and Parliament had not yet succeeded in devising any satisfactory plan for the administration of the English charity-trusts. Such an object had been aimed at, but it had not been attained. He had told their Lordships, what would be the effect of rejecting that measure—namely, the sacrifice of a large portion of the charity trusts; for it was evident, that if they came into Chancery, a considerable portion would remain there. It had been said, in the other House of Parliament, and elsewhere; that these trusts had been applied to the furtherance of political and party purposes. He was glad, that he had now the opportunity of explaining, to their Lordships the real state of the case, and of removing any erroneous impressions which might exist on the subject. He believed, that there were 102 cases in which applications had been made to the Court of Chancery for the appointment of trustees. These applications, according to the usual and established rule of the court, were referred to the Master, and certain regulations were made with a view to the saving of expense, and so great was the satisfaction with which both the parties applying and opposing, viewed the appointments made, that, four or five cases excepted, there was no appeal from the Master's decision, and in all these cases but one, the Master's choice was confirmed. That individual case related to the question, whether a particular estate was left for Church purposes, in which case the rule was laid down, that being a case not provided for in the English bill, although it was in the present, the trustees appointed should all be members of the Church of England. The Master, in this case, was of opinion, that the property was not left specifically for Church purposes, and he appointed some trustees who were not members of the Church of England, but, upon the best consideration which he could give to the subject, it appeared to him, that the property in question was left for Church purposes, and, therefore, the Master's report was so far varied. Their Lordships, therefore, might feel assured, that so far from applying these trusts to the furtherance of political and party purposes, he had not had the opportunity of doing so. It was said, that the same course might be adopted in Ireland. But what did their Lordships propose to do by the clause as it stood? They would appoint Parliamentary trustees, over whom the Court of Chancery would have no control. The trustees might pervert the trusts to any purpose, but the Court of Chancery could not remove them. It was most unfortunate, that no arrangement had been made for the better administration of these charities, but there was no comparison between the advantages of the mode proposed by the House of Commons, and that which was contained in the bill.

The Marquess of *Lansdowne* considered it most extraordinary, that noble Lords opposite should wish these trusts to vest in the ex-mayor, or ex-aldermen, after they had been accused and convicted before Parliament of a mal-administration of those very charities, and had been expelled from office on those very grounds.

Lord *Plunkett* avowed, that he felt a strong political bias, but if he had ever allowed his political feelings to influence his conduct as Chancellor, his conduct would have been most base and unworthy of his trust. He repelled the imputation which had been cast upon him with scorn, of which it was impossible for him to state the degree. If he was a person of that sort and description as would listen to the representations of political partisans, he was unfit and unworthy for the high office he had the honour to fill, and ought to be removed from it. But by the mode in which these appointments were made, a mode precisely similar to that pursued by the Court of Chancery in England, it was impossible for him as Chancellor of Ireland to interfere, except on a disputed appointment. The Chancellor never took upon himself any one of these offices, and if any person should come to him with a political story in his mouth, and recommend individuals as trustees or receivers, that person would be guilty of a gross contempt of court, and the Chancellor, if he listened to any such application, would be guilty of a gross abandonment of his duty. All these appointments were made on a reference to one of the Masters of the

Court, and the Chancellor himself knew nothing about them, unless exceptions were taken to the Master's report; and on behalf of the Masters of the Court of Chancery in Ireland, he begged to state, that no set of men could have discharged the duties imposed upon them more faithfully and impartially; but if political bias could have any effect, as had been suggested, and which he denied, upon those who had sworn duties to perform, he must remark, that the great proportion of the Masters in Chancery in Ireland were gentlemen with whose politics he had not the good fortune to agree. He must add, that this had been a most wanton and uncalled for attack upon individuals who were sworn to administer impartial justice. He was sure, that the Masters in Ireland had not pursued any course of conduct which was not the result of their unbiassed judgment. For himself, he would say, that he had no desire to undertake the discharge of the duties connected with those appointments; and, with regard to what had been suggested, he would only add, that the whole of his conduct in the court over which he had the honour to preside, and his whole life, was the best answer to the imputation that he had violated a sworn duty.

Lord *Lyndhurst* said, that he had before co-operated with his noble and learned Friend on the Woolsack, in arranging bills of very great and vast importance, and he begged to assure him, that he should be most happy to co-operate with him in the production of a bill for the regulation of trusteeships generally throughout the country. He would not say one word as to the manner in which his noble and learned Friend had exercised the duties imposed upon him in reference to the trusteeships of corporation charities, but he was bound to state, that he continually received from all quarters statements complaining that the great majority of the trustees appointed through the intervention of the Court of Chancery—not immediately under the eye of his noble and learned Friend—were warm and violent political partisans; and to obviate this evil, it was, that he, for one, objected to the alteration in this clause which had been introduced by the House of Commons. Owing to the indisposition of a noble and learned Friend, not now in his place (Lord Brougham), the proceedings, with his proposed bill for the regulation of charitable trusteeships had been suspended, and the appointments had consequently been thrown into the hands of the Court of Chancery, and the result had practically been (though not intended by his noble and learned Friend on the woolsack), that party appointments had been made. He had received recently a letter from Bristol on this subject, from which he would read one passage, and then show the letter to his noble and learned Friend. It was from a gentleman with whom he was wholly unacquainted, it was dated the 7th of July, 1838, and signed "Christopher George," who described himself to be a town-councillor of the city of Bristol, and he stated, that in that city the management of the municipal charities had fallen into the administration of a set of trustees, twenty-one in number, and of whom eighteen were what were called Liberals, and a large number were Dissenters. He went on to add, "that the members of the Established Church in Bristol regretted to see the charities founded by the pious Whiteson and Carr for the advancement of the Protestant Established Church superintended and conducted by a board of trustees composed of Baptists, Socinians, and Quakers." "Surely," added the writer, "surely this ought not to be." It was his wish to remedy the evil, and for this purpose he thought that the administration of charitable trusts in Ireland should remain in the hands of the persons who now held them, until Parliament should pass a general measure for the regulation of charities. He did not deny, that there were difficulties in the way, but he should be happy to co-operate most heartily and cordially with his noble and learned Friend on the woolsack, in meeting those difficulties.

The *Lord Chancellor* said, he could not answer an opinion of Mr. Christopher George, an individual whom his noble and learned Friend did not know, nor could he vouch, that any such person existed. He could, however, state, that the case of Bristol had never been brought before him, (the Lord Chancellor) for the Master's report was confirmed without opposition, all parties being satisfied with the appointments that had been made.

Clause, with certain amendments, agreed to.

The other amendments were gone through, and a Committee appointed to manage the conference with the House of Commons.

HOUSE OF COMMONS,

Tuesday, August 7, 1838.

MINUTES.] Bills. Read a first time:—Dublin Corporation; Officers' Compensation; Corporate Property; Alienation (Ireland).

Petitions presented. By Sir R. INGLIS, from certain Wesleyan Methodists in London, Ipswich, and other places, by Mr. FINCH, from a place in Staffordshire, by Mr. THORNELY, from Wolverhampton, by Mr. S. LASCELLES, two, from Wakefield, by Lord ASHLEY, from two places in the county of York, by Mr. M. ATTWOOD, from the Wesleyans of Whitehaven, and by Mr. W. ATTWOOD, from the Wesleyans of Woolwich, against the Encouragement of Idolatrous practices in India.—By Sir R. INGLIS, from a parish in Derbyshire, for additional Endowment to the Church of England in Canada; and from a parish in the county of Durham, against the Parochial Assessments Bill.—By Mr. BROTHERTON, from Stockport, for the better Education and Employment of the Labouring Classss.—By Mr. P. SCROPE, from the Weavers and Manufacturers of Stroud, against the Corn-laws.—By Mr. D. W. HARVEY, from the parish of St. Saviour, Southwark, against the Grammar School Bill; from Sheffield, and other places, complaining of the operation of the New Poor-laws; also from the Operatives of Bath, Rochdale, Halifax, and other places, praying that Mr. R. Owen might be heard at the Bar of the House in support of his plan for ameliorating the condition of the Labouring Classes

NEW POOR-LAW.] On the Report of the Committee appointed to inquire into the operation of the Poor-Law having been brought up.

Mr. *Fielden* said, he could not let this report be brought up without saying a few words of the manner in which the committee had conducted the investigation, and upon that document which was the result of it. His proposition was, that the committee should examine those who nobody could doubt were the best witnesses—the labouring people and the rate payers. He proposed at the first meeting of the committee that they should procure certain returns from those unions in which the rates had been reduced 50 per cent. This was objected to, upon the ground that the returns would be too elaborate to be allowed, and too difficult to procure. He then proposed they should take those unions in which the reduction had been 60 per cent.; and the first three on the list of this description being Ampthill, Bedford and Woburn, the committee ordered the returns from those unions. He (Mr. Fielden) sent two men down into Bedfordshire to make inquiries as to the condition of the people, whom the returns showed to be deprived of parochial relief, under the new law; and he was in hopes that the committee would have gone into a full examination of the rate-payers and labourers of those unions, as well as into the examination of commissioners, guardians, and officers of the new law. But he had been grievously disappointed. The House would find, by looking at the evidence, that the committee had been engaged no less than thirty-six days and a half in examining commissioners and guardians; indeed the commissioners alone had taken twenty days out of the fifty-two days the whole examination had taken up. Four days had been allotted to the medical enquiry; leaving ten days and a half for the examination of witnesses against the law, and this notwithstanding half a million of persons had petitioned against it, stating their reasons. The commissioners and the guardians, too, were persons actually upon their trial; they were persons who had been complained of, and the committee was originally appointed for the purpose of ascertaining whether those complaints were just. Would the House be satisfied, would the country be satisfied that this committee had conducted an impartial examination, when it was found that thirty-six days and a half out of fifty-two days had been allotted to the examining of persons who were on their trial? His main objection to the law was founded on his firm conviction that it would reduce the wages of the labouring people; and if he had nothing more than even the assistant-commissioners to satisfy him upon that point, their evidence had shown him that that had already been the result. The House should have foreseen this before it had passed the law. When it affected to throw men upon their resources it should have been certain that they had those resources; but the cruelty of this law was now becoming obvious in all times of depression of trade, and in the intervals between the different harvests in the agricultural parts of the country. The report stated, in contradiction to what was the fact, that the "real interests of all classes of the community have been consulted in the operation of the law." He was so thoroughly satisfied that this was unfounded, he had seen such strong proof. that it had brought misery upon the labouring classes, that he had thought it his duty to move an amendment to this part of the report. Hon. Members would perceive, that it was stated on the authority of Mr. Overman, vice-chairman of the Ampthill board, that the wages of the labourers in his neighbourhood had been raised since the law came into operation. Indeed, in illustration of the fact, he stated what he himself paid upon his own farm in 1834, and what he paid in 1837; that is to say, he gave them a table containing the weekly payments for every week, in those years, to his labourers, and the totals showed an increase in the gross amount in the year 1837. So far Mr. Overman made out the case very well; but in his previous examination he had stated not only that wages had been raised, but that many more men had been employed on the land; and here Mr. Overman had failed to establish his case, but had completely succeeded in establishing the point which he (Mr. Fielden) aimed to prove, namely a reduction in wages. Mr. Overman in 1834 and 1835 employed twenty men and thirteen boys, and the gross amount which he states he paid to them in the year is 775*l.* 6*s.* 1*d.* He states, that in 1837 and 1838 his gross payment in wages was 870*l.* 8*s.*, which was doubtless a considerable increase in the money spent in wages; but he employed in the latter year eleven boys and twenty-six men, which, as any one would find on calculating it, proved a reduction of 11d. per week in money wages. As Mr. Overman and his table were cited in the report as the proof of an advance in wages, he had proposed an amendment to that part of the report, which he would read to the House. It was as follows:—

"That so far from the real interests of all classes having been consulted by the administration of the Poor-law Amendment Act, as expressed in page twenty-five of their report, the interests of the poor have suffered by the withdrawal of relief and reductions of wages, as appears by the evidence (15,305, 15,318, 15,361 Ceeley, and 16,472 and 16,474 Rauron, and 14,345 and 14,349, 14,353, 14,354, 14,370, 14,479, and 14,480 Overman). The statement of weekly wages paid for farm labourers during four years, by Mr. T. W. Overman, accompanied by the list of labourers in his employment from July 1834, to July 1835, and from July 1837 to July 1838, in the former of which years he had twenty men and thirteen boys, and in the latter twenty-six men and eleven boys, shows the following result: In this calculation five shillings per week only are allowed for the boys, in both years, although Mr. Overman in his evidence, 14,378, says boys' wages had been advanced.

	£.	*s.*	*d.*
1384 AND 1835.			
Thirteen boys, each 52 weeks, or 676 weeks for one boy at 5*s.*	169	0	0
Brought forward	169	0	0
Twenty men, each 52 weeks, or 1,040 weeks for one man at 11*s.* 8*d.*	606	13	4
	775	13	4
Amount paid as per Mr. Overman's statement . .	775	6	4
1837 and 1838.			
Eleven boys, each 52 weeks, or 572 weeks for one boy at 5*s.*	143	0	0
Twenty six men, each 52 weeks, or 1,352 weeks for one man, at 10*s.* 9*d.* . . .	726	14	0
	869	14	0
Amount paid as per Mr. Overman's statement, .	870	8	0

A reduction of labourers' wages in money of from 11*s.* 8*d.* per week in 1834-5, to 10*s.* 9*d.* per week in 1837-8, or 8 per cent., is thus shown by Mr. Overman's statement; and 11*s.* 8*d.* would buy the labourer 129½ pints of wheat at the average price of wheat per quarter (40*s.* 2*d.*) during the year 1834; whereas 10*s.* 9*d.* would purchase him only 99 pints of wheat at the average price (55*s.* 9*d.*) during the year 1837, being a decline in his command over wheat of 25 per cent., and taking wheat at the average price of the week ending 5th July last, his command over wheat then, as compared with 1834, is reduced 37½ per cent.; and this has been going on under the operation of the new Poor-law, notwithstanding Mr. Overman stated in his evidence that there is an increased demand for labour (14,336 and 14,337), no scarcity of work (14,132 and 14,467), that wages have been advanced, and the men do more work (14,183, 14,185, and 14,209), and that farming has not been so prosperous for many years as in 1837 (14,507)."

He had moved this resolution when complaining in the committee of the whole report, and he asked whether he had not a right to complain of such a delusive statement being sent forth to the country as that which he had just pointed out? Before he had become a Member of this committee, he had imagined that the handloom weavers, and some others in the North, were the most miserable of the English labouring people; but he had heard enough confessed in the committee to show him, that if the people of the South were not now as badly off as the hand-loom weavers, it would take but a short time to bring them to the condition of those miserable people. He would pause, in order to ask the House whether it was not both cruel and impolitic to continue this wicked and obnoxious law, if there was any chance that its results would be such as he had spoken of? He could point out good, honest, and industrious labourers, men whose characters were not disputed, who with their families, were living now upon three pence per head per day. Mr. Ceely, a surgeon from Aylesbury (whose evidence by-the-bye, was well worthy of being read) stated, that he was in considerable practice, that he was well acquainted with Aylesbury and the labouring people in its vicinity, and he gave it as his opinion that, sickly and distressed as they were before, their lot had become considerably worse since the new law came into operation. That he had inquired at what he deemed the best sources of information, the tradespeople, those who sold to the labourers the food on which they lived, and all had told him that they sold now less provisions to this class of persons than they did before the new law. If this was fact, he would ask, could anything be more convincing? If the baker, the grocer, and the cheesemonger were now selling less food to the labouring man than they did before the new law, was not the conclusion forced upon them that the new law had deprived the labouring man of the means he had before it passed? In the reports of the committee it would be found that Weale, the assistant-commissioner, had made a statement of the wages of agricultural labourers in Somersetshire, Gloucestershire, and Worcestershire, and the average rate of wages afforded 1*s.* 5*d.* per head per week for the labourer and his family. Mr. Rawson, a manufacturer at Leicester, stated on his own experience, that wages had been reduced one-third since the new law came into operation, and he apprehended a continued reduction. He had sent two men down into the neighbourhood of Ampthill to make inquiries in that neighbourhood, and they took a survey of the parish of Westoning in particular; they obtained the name, number in family, and earnings of every labouring man within the parish for the years 1834 and 1837, and the result, which he would state as short as possible, was a reduction of sixteen per cent. in their means of living. The tables establishing these matters had been put in by Mr. Turner, one of the persons whom he had sent to make the inquiries. They had been attacked in the committee, and Mr. Pearce, chairman of the Woburn board, had been brought up to the committee to refute them; and, according to Mr. Pearce, these labourers were in the receipt of much more money than Mr. Turner had made out in his tables; but how was it? Why, Mr. Pearce finds that the earnings of the families of the labourers, that is, the earnings of the wives and children of the labourers in Westoning, at straw-platting, makes an important difference in the total earning of the family during the year. Mr. Pearce found little to dispute as to the wages of the labouring men. All the difference that there was between his tables and Mr. Turner's, consisted in this, that Turner had stated the earnings of the families at too little, according to Mr. Pearce's account. He (Mr. Fielden) was prepared to dispute the truth of Mr. Pearce's statement. He had the names of the witnesses ready, and amongst them the names of persons who could have spoken from experience and with authority upon the subject; but these witnesses he could not get before the committee. In the absence of them, however, the House might find, by turning to Mr. Pearce's evidence, that when it was the object of the different boards of guardians in Bedfordshire to send families into the north of England to the factories, then the earnings of the wives and children were set down in Mr. Muggridge's returns, as amounting to little or nothing. The earnings of a mother and all her children, were stated in one instance at 3*s.* 6*d.* only per week; whereas Mr. Pearce stated, that a young woman in Bedfordshire of from thirteen to nineteen years of age could earn from 5*s.* to 7*s.* per week at straw-platting. As to the men taking their earnings as stated by Mr. Pearce himself, the House would find that they were getting no more than would afford 1*s.* 10*d.* per week per head for themselves and families. He (Mr. Fielden) thought he had stated enough already, citing even the authority of commissioners and guardians, to prove to the House, that it was necessary to keep a watchful eye on the condition of the agricultural labourers. He had received letters from all parts of the country, from so far west as Barnstaple, and so far east as Norwich, from Carlisle, and from many places in the interior of the country, addressed to him by magistrates, clergymen, guardians of boards, and by tradesmen, all complaining of the operation of this law, and all stating it to have the effect which he had anticipated with dread, and which he had often stated to the House. It was only yesterday that he had received a communication out of Devonshire, in which, amongst other things, great complaint was made of the enormous size of the unions, causing what was equal to a denial of relief to all but those who were able-bodied enough to walk fifteen or twenty miles to wait upon the board of guardians; and this brought him to page sixteen of the report before the House. A compliment was there paid to the commissioners for the "skilful and judicious arrangements which they have made, and for the great discrimination which they had shown in adapting their operations to local peculiarities." But this compliment was not in unison with an opinion given in p. 14, where the report said, "Your committee are of opinion, that it does appear that the size of the medical districts, in many instances, is inconveniently large," while in the 24th page of the report, the House would find a specific recommendation appended to it, to give the Commissioners powers to reconstruct their own unions. This he apprehended would require a statute; so that these able and judicious men had formed a set of unions so inconvenient even to themselves, that they were already applying to Parliament, through this committee, for powers to undo their own work. Why, it appeared to him, that these persons had shown a want of ability in the only part of their duties that required wisdom. To alter the old-established divisions of the country, and form a set of new ones that should be more convenient to the people, was, doubtless, a matter that required judgment and discrimination; but, these persons had shown that it was not possessed by them in this particular at any rate, and therefore, he protested strongly against this part of the report, which paid them a compliment in one page, on the very subject on which, in another page, it condemned them. At the same time, that the report recommended that the commissioners should have the means given to them of reconstructing the unions that they had already formed, it also recommended, that they should have power given to them to dissolve all the Gilbert unions, and to nullify all provisions of local acts all over the country relating to the relief of the poor. He hoped that the Gilbert unions, and those places where the relief of the poor was now administered under local acts, would watch this subject well. He hoped, that the representatives would be reminded of their duties, and that the country would not be thrown into additional confusion by additional powers being given to those persons who were obliged by their application for a fresh act to confess their incompetency. He (Mr. Fielden) not only hoped that the commissioners would have no further powers given to them, but he hoped that the representatives of the people would come up to Parliament in the next Session, prepared to negative any proposition that might be made to Parliament for continuing the powers they at present had.

Lord *Granville Somerset* did not wish to interrupt the hon. Gentleman in stating his own views upon the subject; but when he entered into circumstances of which the committee alone was cognizant, and of which the House as yet knew nothing, he put it to the Speaker, and to the House, whether the hon. Gentleman was treating either the committee or the subject quite fairly.

The *Speaker* had not had the good fortune to collect much of what had fallen from the hon. Member, but the greater part of that which he had heard certainly appeared to him to relate to matters of which the committee was exclusively in possession. The report of the committee was now placed upon the Table. If the hon. Member dissented from any part of it, it would be competent to him to state his objections at length on some future day, after the report had been printed and placed in the hands of the House; but he put it to the hon. Member whether, at the present moment, it was either fair or reasonable to enter into a long discussion on a report of the contents of which the House was not yet in possession.

Mr. *P. Scrope*, from the more immediate vicinity of his seat to that of the hon. Member had enjoyed the singular advantage of hearing much that had fallen from him, and he begged to assure the House that the hon. Member had gone through the greater part of the report, and had raised an objection to every page of it. Amongst other things the hon. Member had complained of the want of due attention, on the part of the committee, to the evidence adduced before them. Now, of all the members of the committee, the hon. Member for Oldham was certainly the very last who had a right to complain upon that head, because, throughout the whole of the inquiry, the committee had paid the most watchful and the most anxious attention to every particle of evidence which the hon. Member had it in his power to bring forward. He would not attempt to follow the hon. Member through the voluminous statement into which he had entered. He would leave the report to answer for itself, perfectly satisfied that as a majority of the committee had concurred in it, so also would the majority of the public feel that they were perfectly justified in adopting it.

Report laid on the Table.

Tin Duties.] On the motion of the Chancellor of the Exchequer, the House went into Committee on the Tin Duties bill.

Lord *Granville Somerset,* pursuant to notice, moved, that the import duty on foreign tin be reduced to 12*s.* per cwt. He conceived that the existing duty of 50*s.* per cwt. acted as a complete prohibition upon the importation of foreign tin and it was to remove that prohibition that he was induced to come forward with the present motion. He did not wish the counties of Cornwall and Devon to possess hereafter a complete monopoly of tin; but at the same time he was anxious not to break down their present monopoly so rudely as to introduce at once a flood of foreign tin. It appeared to him, however, that the public had a clear claim to the advantage of reduction in the existing price of tin. He was willing to give the Cornish miner a fair field for exertion: he would release him from the local burdens which pressed upon him; but at the same time he thought that something was owing to the public, and he therefore moved for the reduction of the import duty on foreign tin to 12*s.* per cwt.

The *Chancellor of the Exchequer* concurred with the noble Lord in thinking that if the duty on foreign tin were such as to give to the Cornish miners a monopoly, they would in fact be putting into the pockets of the miners the amount of the reduction of the duty. Now Ministers proposed to reduce the duty to 15*s.*, which they thought would accomplish their object in preventing this; and the chairman of the manufacturers' association (Mr. Smith) had concurred in fixing this amount; but the noble Lord was anxious to obtain more than even what the tin-plate workers wished and the only difference between him and the noble Lord was whether a greater reduction of three shillings should take place; and he thought that his proposal was just as an experiment; but at the same time, if in practice it should be found to throw a monopoly into the hands of the English miners, he would, as he had told the manufacturers, feel himself bound to come again before Parliament to reconsider the subject, and to fix a lower rate of duty, giving, however, all due protection to British interests.

Mr. *Hawes* thought, that although the miners and the manufacturers might agree in fixing the amount, yet the interests of the public, the consumers ought to be taken care of also; and from the representations made to him, he thought that the duty of 15*s.* would, in fact, amount to a prohibition of the foreign tin, and that it would be continuing the protection to the Cornish miner, whilst the ground on which that protection existed, was swept away. If, therefore, the noble Lord went to a division he would certainly vote with him.

Sir *C. Lemon* said, that he had figures before him to prove, that a duty of 15*s.* per cwt. would leave a fair chance of having an importation of foreign tin. The duty on these plates in France was cent. per cent., and in Russia it was 200 per cent.; it would be well for the noble Lord to turn his attention to those duties, before he further pressed for the present reduction.

Mr. *Poulett Thomson* said, he had been most anxious for a long time to procure a reduction of duty on tin; but he had been hitherto successfully opposed, because of the local burdens, and the fear of the operation which such a reduction might have upon the mines. But when the time arrived for a reduction of the duty, coupled with a reduction of the dues, he had stated to the miners that if these dues were taken and charged on the consolidated fund there must be such a reduction of duty as would be likely to make up the deficiency to the revenue. His opinion, however, was, that they would be ultimately compelled to make a further reduction of duty; but this was no more an argument for a duty of 12*s.* than for a duty of 15*s.*; for in the absence of information, which could be ascertained only by the test of actual experience, he could not say what amount of duty it was proper to impose; and when those who had some information said, that 15*s.* would effect the object that he desired, he had no right to make any objection. But he repeated what had been stated by his right hon. Friend (the Chancellor of the Exchequer), that if the experiment did not answer as fully as Government expected, he would move to reduce the duty still further, with the view of obtaining an importation of tin for the benefit of the trade. He deplored that the duties in foreign countries were so high, but he was not a Minister there, and he was of opinion, that if we made our own produce as cheap as possible, we need not fear of obtaining a fair share of trade. The hon. Member behind him had said, that the interest of the consumers had been overlooked, but he could see no difference in this instance between the interests of the tin-plate worker and the consumer; he knew this was not the case with the manufacturers in general, but he could see no sinister interest on the part of the manufacturers, and he was, therefore, willing to take their opinion as to the proper amount of the first reduction.

Lord *Eliot* said, that this was a question of itself, and ought not to be disposed of on the principles of a free trade, but on a due consideration of the peculiar nature of the mines, and the necessity of constantly working them. He did not know whether it would be better to fix the duty at 12*s.* or 15*s.*, but, as an experiment, he would at first support the smaller sum, and if that amount were found insufficient, the President of the Board of Trade might move to increase it.

Mr. *Aglionby* was surprised at the attempt to legislate without that information which might have been obtained, and, for himself, he could not see why the amount of duty should not be reduced to 12*s.*, or even 6*s.*, and he would, therefore, support the smaller duty, on the same principle, that he advocated a repeal of the corn laws.

Sir *Hussey Vivian* contended, that it was the duty of Parliament to look to the interests of the workmen of this country; and that by adopting a low rate of duty, many persons in Cornwall would necessarily be thrown out of employment. He, therefore, called upon the House to adopt the proposition of the Government, and to negative the amendment of the noble Lord opposite.

Lord *G. Somerset* felt he should best consult the interests of those whom he represented and of the public by withdrawing his present proposition, and he considered, that he should by that means secure the object that he had in view—that of bringing into the market the competition of foreign tin, and of preventing the continuance of that monopoly which had existed for so many years on the part of the home producer. He begged to give notice, however, that should not this be the result he would bring the matter under the consideration of the House in the course of the next Session.

Amendment negatived. Bill went through the Committee, and the House resumed.

HOUSE OF LORDS,

Wednesday, August 8, 1838.

Minutes.] Bills. Read a first time:—Canadian Government Declaratory.—Read a third time:—Customs; Fines and Recognizances (Ireland); County of Clare Treasurer; and Constables on Public Works.

Petitions presented. By the Bishop of London, from South Lincolnshire, from Congregations of Wesleyan Methodists of Clitheroe, Newcastle-upon-Tyne, and other places, against encouraging Idolatry in India.—By Lord Redesdale, from Leeds, and from Bristol, in favour of a Ten-hour Factory Bill.—By Lord Wharncliffe, from Dundee, to pass the Sheriffs' Court (Scotland) Bill.

HOUSE OF COMMONS,

Wednesday, August 8, 1838.

Minutes.] Bill. Read a third time:—Duchies of Cornwall and Lancaster.

Petitions presented. By Dr. Lushington, from Poplar and Limehouse, against Idolatry in India.

HOUSE OF LORDS,

Thursday, August 9, 1838.

Minutes.] Bills. Read a first time:—Consolidated Fund (Appropriation); Exchequer Bills (Public Works); Four-and-a-Half Per Centum Duties; Tin Duties; Coal Trade (London); County Treasurers (Ireland); Church Buildings Acts Amendment; and Slave Trade Treaties.

Petitions presented. By the Earl of Falmouth, from Great Yarmouth, and another place, against the Encouragement of Hindoo Idolatry; and from the Clergy and others of Melcombe Regis, to Extend the Provision for the Church of Upper Canada.—By the Earl of Albemarle, from King's Lynn, and another place, against the Encouragement of Hindoo Idolatry in India.—By the Duke of Richmond, from the Guardians of the Croydon Union, and by Lord Redesdale, from the Guardians of a Union in the county of Huntingdon, in favour of the Poor-law Amendment Bill.

Canada—Declaratory and Indemnity Bill.] Lord *Brougham* rose to move the order of the day for the second reading of the Canada Government Act Declaratory Bill. The noble Lord said, the incidental conversations which had taken place on the important subject to which this bill related, and the preliminary discussions to which it had given rise, sufficed to show the necessity of introducing a measure of this nature—for they proved the deep interest that was universally felt in that House with reference to the question, and which he believed excited elsewhere a still greater degree of interest and of attention. He had felt it to be his bounden, though painful, duty, to bring this deeply important matter before their Lordships' House, in consequence of statements which had been made in that House. He had also felt it to be his imperative duty to resist in all its stages, the passing of the Canada Coercion Act. Now, although his opinion remained the same as it was before—although every thing that had happened since the passing of that bill—(and above all, the matters disclosed in the papers then before their Lordships)—had strengthened rather than weakened his original opinion—although his reflections, in the intermediate time which had been given for deliberate and sober reflection during the progress of that measure, had led him to entertain the same opinion—an opinion decidedly hostile to that measure—although his opinion was as strong as ever on that point—although he was now induced to desire even more earnestly than formerly, that no such measure should have been passed—yet he had no hesitation in saying that, entering simply his protest against entertaining and carrying that bill—his opinion not having suffered any change, except that of greater disapproval of the measure—he meant in this proceeding to dismiss from his mind hostility altogether, with reference to what had already been done by the Legislature. He took that course because he thought that he should best discharge his duty as a Member of Parliament, as a good subject, and as a patriotic citizen of this empire, in avoiding all retrospect whatever, with respect to those ample grounds of difference and dissent which, in the progress of the bill to which he had alluded, separated him from almost all the Members of that House. With that feeling and impression, he should only consult now (that measure having been made law) how its policy and intention could be best accomplished and effected. Parliament, in its wisdom, said, that it was proper, for the interest and safety of all parties, that a very large measure should be acceded to; so coercive a measure could only be wrung from Parliament on the alleged necessity, the imperative necessity, of the case. It seemed, therefore, to Parliament in the peculiar circumstances in which this important province was placed, that an absolute necessity existed for suspending the constitution. Why? Because it was deemed there was so universally prevailing a discontent which had broken out into outrage and violation of the law—that the Legislative Assembly, representing the people, was so disturbed, and, partially, even so disaffected, that so long as the constitution of the country was kept in its original state, and the Legislative Assembly allowed to hold its sittings, there would be, as it were, a focus of sedition and disaffection in the colony, which would blow up the flames into open rebellion, and preclude all hope of allaying the prevailing discontent. In one short sentence that was the policy in which the bill took its rise; and it was to establish the purpose of that policy that the bill was passed. Ample powers of Government therefore must, no doubt, have been provided, the constitutional powers having been extinguished; and such powers had accordingly been intrusted to the Governor-general in Council of the province of Lower Canada. Now, he would venture to say there was no proposition on this or on any other subject, which could be stated by man, more self-evident than that which he was about to utter,—every one who assented to that measure, and all branches of the Legislature in passing it (deeming it to be, as it carried in its very title, a temporary measure—a measure for providing for the temporary government of the province of Lower Canada, being in its enactments temporary, giving powers of an extraordinary nature, but which were to expire in 1840), those who passed it, looked forward to the restoration of the constitution, to a renewal of the ordinary powers of Government, within their ordinary restrictions, as soon as quiet being happily restored, the year 1840, should arrive. All the bill did or could intend to do then was to provide for a temporary administration of the necessary powers of government, the supreme power in the State, during the interval before peace should be restored, and while the constitutional powers of the Legislature of Canada was suspended. Did there not follow from this, one corollary as self-evident as the proposition itself? That it behoved the Government erected during that interval for the temporary purpose of replacing the constitution which the bill had suspended—that it behoved those in whose hands such extraordinary powers were for that purpose during that interval confided—always to look forward to the year 1840, when the temporary constitution of an arbitrary description should cease to exist there, and when the old constitution, not arbitrary, but free, should be restored; and so to govern themselves, and so to administer the arbitrary powers intrusted to them, as to afford a chance, a good chance, a great and eminent probability, and, as far as human precautions could go in any human affairs, an absolute certainty that the year 1840, which restored the old constitutional government should also see real, substantial heart-felt reconcilement re-established between the province and the parent state. The first and most important thing which could be done with that precautionary view, always paving the way for the restoration of the power of the mother country, was manifestly to exercise as sparingly, as parsimoniously as it was possible, the extraordinary jurisdiction and authority conferred by the bill. It was intended to supply the absence of the suspended constitutional power, by, he would not call it, although it had been called, dictatorial power, but power of a very extraordinary nature, and that this power should have been exercised as sparingly as possible, only when absolutely necessary, was the manifest policy, the clear intention, of the act itself. The constitution was suspended; it was supplanted by another; the free constitution was, for the present, silent, with its laws, ordinances, usages, and practice; it was repealed by another; an arbitrary one was put in its room—why?—because a supreme power must exist somewhere, or the ordinary function of Government could not be administered; and the intention was, that only what was necessary, and no more, should be done to enable the Government to carry itself on and take all the means which prudence, temper, moderation could suggest for the purpose of conciliating the people, and preparing them, notwithstanding the extreme act, which they thought an act of arbitrary violence, of suspending their constitution, so to recover their affections as to promote the restoration of peace to the province and give stability and duration to the colonial connexion. Upon this latter point his opinions were not changed; he did not think it would be of very long duration; but, adopting the policy of Parliament to strengthen the connexion, to continue and as far as human precaution could extend to perpetuate the colonial subjection of the Canadas, his paramount duty, as an honest Member of Parliament, as a good subject, and a patriotic citizen, was to consult how the empire might be best held together, which could only be by means and measures to reconcile the affections of their transatlantic brethren. It was clear that under these circumstances as little should have been done as possible merely to carry on the Government. All extraordinary, and needless, and superfluous acts of authority should have been avoided. A second proposition he took to embody a maxim just as clear—that the utmost, the most scrupulous, care should have been taken not to exceed the ample power conferred by the Act. There was yet a third maxim applicable to this subject, of the truth and soundness of which he was equally convinced, that even acting within the powers conferred, taking the most scrupulous care not to exceed the ample limits of the authority given (and the more ample the limits the more easy was it not to exceed them)—the uttermost anxiety should be taken to execute the high, and in many respects the unconstitutional, powers given by the bill, by which he meant powers alien to the whole spirit of the constitution of this country, in so moderate a manner, with so extreme a caution, with so great a regard to the actual circumstances in which they were exerted, and, so to speak, in as constitutional a spirit as it was possible to show in executing unconstitutional powers. One thing was perfectly clear—if such great power of legislation was to be given and to be exerted, no laws should be made in execution of that power which the necessity of the case did not require. Not only was it always safer and more prudent, in the perils which surrounded them, rather to do too little than too much, but in the laws passed, which necessity might compel them to promulgate, extreme care indeed should be taken to follow the spirit, even to the forms, of British legislation. The person to whom they intrusted those powers ought to be bold and resolute; but he ought also to maturely consider the perils with which he had to grapple, and he ought moreover to be aware and to feel, that discretion and prudence, in meeting those perils and in the exercise of those powers were fully more, and certainly at least as necessary in accomplishing the object he had in view—*plurium audaciæ quoad capienda pericula* but also *plurium consilii ipsa inter pericula*—When he came to consider how far these maxims had been followed, how far these canons of policy had been obeyed, how far those sound and moderate principles of common justice had appeared in the conduct of the Canadian council, he was compelled to say, that he could find no evidence that they were known. If he had said to their Lordships at the time this Canadian Bill was passing, "Do you mean to suspend the constitution, and to arm a dictator with the power of confiscating any individual's property, of seizing his person, of condemning him unheard, of passing bills of pains and penalties of his own mere motion, and, with the assistance of his council, of promulging against whom he chose, and for what he pleased, at any moment acts of attainder?" if he had said "Do you mean in this bill, not only to make the governor of Canada the supreme law-giver, with his council, but a judge civil and criminal in every man's case, as to his property, his limb, his liberty, and his life, a supreme criminal judge without appeal; and that he, the same person, with the assistance of his council, should execute the criminal law as well as the civil in all cases which the prerogative of the crown, his master or mistress, whom he represents, has always and in all times delegated to the sworn judges?" should he not be told at once, and by every man who had supported the bill on the policy in which it had originated, whether sitting on that or on the other side of the House, that he was putting an extravagant gloss upon the bill, that he was arguing upon the letter against the spirit, and that no man living would ever have dreamt of conferring such powers? But to make it more clear, elsewhere, in the other House of Parliament, that no such unlimited power had been given, a great lawyer, the worthy successor in his mind, of the Romillys, the Pigots, the Erskines, the Gibbses, and the Ellenboroughs of past times, he meant the late Solicitor-General, his hon. and learned Friend Sir William Follett, not being satisfied with what had satisfied them, inserted words to which their Lordships' attention had more than once been called by him, a proviso expressly declaring that no law or ordinance of the Governor in council should be passed which should repeal or suspend or alter any act of the British Parliament. If then he had stated, supposing this clause formed parcel of the bill originally, or if his noble and learned Friend (Lord Lyndhurst) had stated, after the precaution that had been taken to exclude such measures, might not the Governor, notwithstanding they had tied him down from altering, suspending, or repealing acts of the British Parliament generally, might he not in a particular case pass by them, and issue an ordinance in the teeth of them, to enable a party to do what the Act of Parliament prohibited, and to compel a party to suffer that from which those Acts protected him, and which were so formed for the express purpose of protecting him, would not the answer have been that it was monstrous, outrageous, ridiculous to suppose such a thing? When they tied up the hands of the Governor in council from altering the law made for the protection of all, should they allow him to evade that protection, by making a law for the oppression of an individual? The law being to protect A, B, C, and all other subjects, and being framed for that protection, and the Governor being prevented from repealing that law, should the Governor be allowed to do exactly the very thing which the law prohibited? Should he be allowed to destroy A, B, and C, by removing them from the protection of the general law? He need not state what the answer would have been. But, supposing those who were hostile to the measure—and he himself was one—had said, Why, not only will the Governor be passing bills of attainder, notwithstanding all these precautions—not only will he be flying in the face of all the most sacred and best established laws that guard the purity and justice of the administration of the criminal jurisprudence by which the statute of the 14th George the 3rd, in express terms, was made parcel of the law of Lower Canada, both as regards treason and all other crimes—not only will he do that, but I am afraid, as you make him absolute, he will condemn people who have never been tried; not only will he pass bills of pains and penalties, *privilegium odiosum*, as civilians call it; not only will he pass bills of attainder, acts which in any country are resorted to only in cases of absolute and overruling necessity, which justifies itself, however atrocious the matter it may compel you to do—not only will he have recourse to bills of pains and penalties and acts of attainder, but he will not even pursue the ordinary course in all bills of attainder—have the confession of the party, or enable the party to come and appear and oppose them, or appoint a certain day, if the party has absconded, before which, if he does not appear, he shall be taken to have confessed and be made subject to the penalty of the Act. Supposing I had said, he will pass a bill declaring a number of individuals, not in the country, who have never confessed, who were never tried, against whom no indictment has been laid, who were not within the country at all since the Act in question—that he will pass a bill condemning them all to death if they come within the country—persons who were never tried, having confessed nothing, there being no plea and no hearing, having no notice of such bill served upon them, or any copy of notice asking them whether they meant to come back, and giving them a day on which to appear and take their trial—supposing he had said that, what would be the answer? Why, that he was putting a case which nothing but the most disorderly imagination could suggest; that he was supposing a case to happen which nothing but a distortion of the understanding, arising from hostility to the measure, and incurable prejudice, could, for a moment, have made him harbour. That, he was sure, would be the answer which he should obtain; and he was now about to show to their Lordships, that every one of these impossibilities had actually happened. He would pass by the statement of the Earl of Durham in his letter, in which he stated, that the ringleaders had been induced to plead guilty, because whoever read the whole passage, would perceive, that he was using an ordinary loose form of expression; and he would refer to another point, which stood upon very different grounds. In the first place, the Earl of Durham said that these parties confessed. Now, he was bound in justice to say, that Wolfred Nelson and the other persons, by their friends in America, and in this country, peremptorily denied their pleading guilty or confessing; they said, that a paper was handed to them for their signature, which contained a confession of their guilt, but they respectfully declined to sign the paper; that no objection was made to their confessing having been guilty of resistance to the Government, but they positively denied that they had traitorously, or even seditiously, or rebelliously resisted the Government. He admitted, that those persons were willing to go to the Bermudas, but there was a reason why he could understand this. The jury law which had been introduced into Canada by Sir Robert Peel, and which had been found to work admirably, was only a temporary Act; it was experimental, and it expired in 1834, when a new bill was introduced. Then came on the unfortunate dissensions between the two Houses of Assembly, when the Upper House flung out the Jury Bill, because the Lower House flung out the Taxes Bill. There was, therefore, now no jury trial according to Sir Robert Peel's Bill, but they reverted to the old jury system, which gave the sheriff, who was removeable at the pleasure of the Governor, the power of selecting the jury, so that Nelson and the others—and here he must say, that he was informed that Nelson was a respectable man, and one who had the confidence of his fellow-countrymen (but, however, that might be so or not); but if he were ever so bad a man, and ever so guilty, his observations would apply just as much as if he was the most respectable man in the world; because it was always against men of less pure character that arbitrary acts were directed, thus entrenching themselves in the natural feelings of men when they wished to overstep the bounds of law—that was a reason why these persons should prefer going to Bermuda, they being aware, as they now admitted, that they could not be detained there a moment; that as soon as they were three miles from the shore, where the jurisdiction of the Admiral began, they might bring an action against the Captain for false imprisonment, if he kept them on board; that the first ship they hailed they had a right to go on board of, and go to this country, or back to Canada if they wished. But they did not plead guilty, or make any confession. If they were disposed to plead guilty, they would go before a court and jury, and plead the plea of guilty. They were not taken before any court; and here another question suggested itself. It was said, that no twelve men in Canada could be found to convict these persons upon their own confession. Why, in such a case, the jury would have nothing to do. If they were of sound mind, they must convict them for pleading guilty; there would be no issue for the jury to try, and consequently they must have been convicted. If, therefore, those persons had been disposed to plead guilty, they would do what was done every day at the Old Bailey, they would take them before a jury, have their plea entered upon the record, and sentence passed as a matter of course, and Government might, by negotiation, commute that sentence to transportation, by making terms with the parties, for them to agree to go to the Bermudas, or any other colony. The Earl of Durham said, that he would not send them to a penal colony. Was it certain, that the Bermudas was not a penal colony? It was a penal colony; there was forced work there. But this was perfectly immaterial; for whether it was a penal colony or not, did not affect his argument. He had already stated, that it was his deliberate opinion, that the proceedings that had taken place were illegal, under the terms of the Act as it stood, and all that he had to do in this bill, was to state that there were doubts; for every lawyer must agree in saying, that to doubt whether a thing was right or wrong, was sufficient to induce them to pass a declaratory Act, unless, indeed, some one were to get up and say, that they were all of them clearly in the wrong, and that there was no doubt but they were wrong. What he had stated, referred to the first branch of the case; and that was by far the most inconsiderable. What would be said of that part of the ordinance which condemned all those men who were not in the province, who had not only never been tried, but with whom no communication had taken place, who did not know that the ordinance existed, who had no notice of the intention in order that they might oppose it—those men who had never confessed, but who positively denied, many of them, all participation in last winter's revolt—men who did not confess, or even, like Nelson, admitted the fact, but denied the inference, —men who denied both the fact and the inference—what would be said of a proposition so monstrous, that the fact, and the only fact, necessary to pass an Act of attainder, was the setting foot across the Canadian frontier, although the party was untried, unprosecuted, unheard, ignorant of the Act, and without notice of the Act; aye, and without a day being assigned on which they might appear and stand their trial even according to the bad jury law of Canada. But all this had been done. This was the case before their Lordships. In the highest Court of Judicature in the world, in the highest Court of British justice, where the hair of a man's head could not be touched without full hearing, open investigation, and fair trial, he need not ask whether such proceedings ought to be condemned? But it was said, that the Earl of Durham and his Council, who were on the spot, knew better than their Lordships here could, what steps it was most fitting to take. True they were upon the spot, and for that reason he and his Council would best know how to execute the law, and for that they had given powers, but they had no power to pass bills of attainder against absent men; the noble Earl had no power to pass them at all, but it was clearly illegal to pass them against absent men without notice; it was a violation of the power given, admitting for a minute, although he altogether denied it, that the power was given to pass bills of attainder, as regarded M. Papineau and fourteen others. With respect to bills of attainder, although they were only justified by necessity, yet they had been so frequent, as to have established a kind of practice which was consistent with justice and common sense. Lord Chief Justice Comyn, in his excellent Treatise, said, that in bad times where a person was in the country, he might have been condemned without an appearance, but where a person was absent, the course was to fix a day, so as to enable him, if he chose, to make his defence. In the times of the Plantagenets, the Tudors, the Stuarts, and even in their own times, this was the uniform practice. This was the case in the time of Edward 2d. in 1322, in Despencer's case; and in the case of Sir John Fenwick, by the 8th of William 3rd. The very title of the bill, in the case of Fenwick and the other persons implicated in the assassination plot contained the words "unless they render themselves to justice upon a certain day, four months from the date of the passing of this Act." Again, in the first of George 1, there was an Act to attaint James Duke of Ormond, unless he rendered himself on a certain day named, and that was six months from the date of the passing of the Act. And what said that illustrious and eminent lawyer, Lord Ellenborough, on a similar occasion, upon a celebrated case that was heard before him? Sir Vicary Gibbs, on that occasion, stated, that the law was, that that Court (the Court of King's Bench) was bound by a foreign judgment, he produced the foreign judgment, showed the Seal of the Court, and proved the Seal to be genuine, and the handwriting of the judge. What was Lord Ellenborough's celebrated answer? He said, he did not deny that to be the law, but he said that all power must be exercised rationally—all laws had reference to right reason; and although he admitted what was stated to be the law, and that the power of a foreign Court was supreme in its own dominions, yet the law of England was binding upon him and the jury, and he could not traverse it. It appeared to him not only not to be consistent with reason and justice, but contrary to the first principles of reason and justice, that either in a civil or criminal proceeding, a man should be condemned without being heard. The question before the Court, was, whether in the absence of a person of the name of Buchanan, nailing a notice on the Court doors was sufficient. Mr. Buchanan was no more in the island of Tobago than M. Papineau and the other fourteen were in Lower Canada. But if it were so vicious, so contrary to all reason and justice, that any man should, in his absence, and unheard, and unnotified, be condemned even in a civil cause, how much more in a criminal Court, and upon a capital felony, was it contrary to all the principles of reason and justice. But again, had each of these cases been made the subject of deliberate and separate legislation? Were the circumstances of each inquired into? The answer would be, of course. He would show that the very reverse was the fact. In the first place there were two gross misnomers, than which there could be no greater evidence of the inconsiderate speed and the want of due deliberation with which those proceedings were accompanied. For instance, in the list of the adherents of M. Papineau, one person was called Edmund Burke O'Callaghan, his real name being Edmund Bailey O'Callaghan. Could there possibly be better evidence than this simple fact afforded, that no sufficient inquiry into the charges made, had ever been instituted? This man might be the more guilty of the two, and yet he could not be tried under the ordinance. Another individual was denounced under the name of John Ryan the younger, when, in fact, his name was not John Ryan; when, instead of the common and ordinary appellation of John, he bore a most remarkable name, the name of one of the greatest of English lawyers—a man to whom the law of this country owed more than it did to any other individual; the name of the man thus denounced, was Jeremy Bentham Ryan. Surely, if there had been the least shadow of an inquiry, such a name could not have been passed over, because it was clear that the guilty man might escape, and the innocent be punished. Then Louis Perrault was denounced, as having absconded after the outbreak, and in consequence of the warrant issued for his apprehension. Now, what was the fact? He quitted Quebec long before the outbreak, and proceeded to the United States on the affairs of the house of business to which he belonged, and being there, he remained in the United States, on account of circumstances which happened to his brother. It was not true that Perrault had absconded after, or in consequence of, the issue of any warrant. He went to the United States on his lawful business, and as he did not return to Canada on his lawful business, it was taken for granted that he absconded because of a certain warrant, said to have been issued for his apprehension. The last and most important case to which he should refer, was that of the elder Ryan. The ground set forth in the ordinance for including the name of the elder Ryan, was, that a warrant had been issued against him for high treason. The real state of the case was, that no warrant had ever issued against him for high treason. There had been a warrant against him for sedition, but none for high treason; but their Lordships were aware that sedition was merely a misdemeanour, punishable by fine and imprisonment. That was all of which John Ryan, the elder, stood charged; he was not convicted, he was merely accused of sedition, and upon that accusation the Governor and Council thought proper to pronounce upon him sentence of death, a sentence which he hoped, had not been carried into effect. He had already said, that to him it was a perfect matter of indifference whether the statements to which he had been calling their Lordships' attention were in exact accordance with the facts, or otherwise; at least, it would not affect the grounds upon which he brought forward the bill, which he had yesterday laid upon the Table of their Lordships' House. Whichever way the facts were, he felt himself entitled to proceed upon the law of the case. Great doubts existed as to what the law was, and it behoved their Lordships to settle it at once, and definitively. He put it to their Lordships with all respect, would they, if they had known, that under colour of this Act, these things would have been done—would they—he was confident they would not, for their consent to passing it was wrung from them by the representations made to them of the necessity of the case—would they have set their hands to the Act, if they had been told, that such enormities were to be committed under it, and were understood by its legal authors to be its true intent, and meaning? He answered for the Peers of England, and answered, No. [*Cheers.*] Their Lordships had now answered for themselves. They were incapable of sanctioning such an Act as this. They never would have consented to such a construction being put upon it. Those who were lawyers, knew it would not bear such an interpretation, and those who did not belong to the legal profession by the light of common sense were guided to the same conclusion. But he threw altogether out of view this consideration as immaterial to the passing of the Declaratory Bill If the Act did not bear the construction he put upon it, if he was not right in his interpretation of the law, nor those legal persons whom he had consulted on the subject, and who entirely concurred with him, nevertheless they must pass this bill, to declare what the proper construction of the law was. If, on the other hand, for the dilemma was perfect—he was right in his law, if an improper construction had been put upon the Act by the Government of Canada, then, past all question, this bill must be passed, because doubts were entertained on the subject here. The only question was, whether they were in error on the other side of the water, as he said they were, or whether the error was here. He could not undertake in the bill he had drawn up, to indemnify for all that had been done. There might have been other breaches of the law for which he should be very loth at once, and not knowing what they were, to give an indemnity. He thought, an indemnity ought to be given as regarded the nine persons said to be sent to the Bermudas; and he had framed this bill accordingly; but he doubted as to proposing an indemnity to those who had done so strange a thing as to condemn to death, persons who had not had the benefit of any form of trial whatever, nor in such an extraordinary case as the condemnation of a person for high treason, who had been guilty of only a misdemeanor. He could not, therefore, agree to an indemnity, as applied to the case of Louis Perrault, and the elder Regan. It was admitted by the Government, that illegal things had been done to a certain extent. He differed with them greatly as to the extent, and he also differed with them materially as to the construction to be put upon the Act. That a Declaratory Act, and an Indemnity Bill were necessary, was quite clear. How far the indemnity, and how far the declaration were to be carried, was another question. He had felt it his duty to search for precedents, and he had found one which completely met this case—he should be sorry to say, that this was any parallel to it in its features of gross and culpable error, but he was speaking of the principle. It was a bill drawn up by Lord Mansfield in the year 1767, which was the subject of great discussion. It related merely to an embargo, a matter of far less importance than the present case, but still the principle was the same, and the authority of the mover was such, as he was sure their Lordships would agree with him in treating with all the respect it deserved. In all the experience he had had of political affairs, he never remembered a misrepresentation more gross than that which affirmed that lenity had been shown to Dr. Nelson and his associates, and that lenity had likewise been shown to M. Papineau and his adherents. It certainly was not the lenity shown to Dr. W. Nelson and his late associates, that he complained of, but he did complain, that they were not sentenced according to law, and that they were sent to the Bermudas, when the law did not authorise their being sent beyond Canada. But what became of this talk of lenity, and mercy, and kindness, and forbearance, with regard to M. Papineau, and his fourteen associates; and that was the gravamen of his charge. Was it mercy to them, was it lenity, kindness, or forbearance, to condemn them to death, without first giving them a hearing—to pass a bill of attainder against them, they being ignorant of the intention to pass it? Was it merely to allow them not one of those safeguards granted to traitors in the worst of times under the Plantagenets, the Stuarts, or the Tudors? Was it mercy, or kindness, or forbearance, to condemn them unheard, and even ignorant that their case was under consideration? A more extravagant, a more outrageous mis-statement of the whole question at issue, never was ventured in any argument by any persons, whatever the degree of heat occasioned by the conflict of controversy. Every one knew, that the law of England held men to be innocent, till they were pronounced to be guilty. He gave the benefit of that just maxim of jurisprudence to M. Papineau and his associates. Till they were tried, he had a right to assume, they were not guilty; and even if they proceeded by legislation instead of trying them—if they prosecuted by attainder instead of by trial by jury, it was in that case only right, that the privilege should be theirs of being considered not guilty, unless by that Act of attainder, they were afforded the opportunity of coming home, and on a certain day, surrendering themselves to be tried. Every one of these persons was absent from Canada at the time of these proceedings, and they were bound by the law of England to assume, that they would have returned, if a day had been fixed for their doing so, as by law there ought to have been. Such was the case he had to make out against these ordinances, and such was the case he had to submit to their Lordships in favour of this bill. Arbitrary power, said the noble and learned Lord in conclusion, has been temporarily placed in the hands of the Governor of this province, not, however, to exasperate the people, but to save them from the effects of their own violence, and to protect the innocent from the arts and practices of the designing and turbulent. It was to enable the Government, by having a strong hand, to protect the peace of the Canadians; "but, above all things, to enable you to look forward to that day, when with joy, you, as well as they—and you who made the Act, ought to feel the joy more than themselves—it was with a view to that happy day, when, after the restoration of peace and security to the colony, you will be enabled to give back the Constitution, and cement more strongly than ever the connection between the two countries. Then I do implore your Lordships to act on the present occasion in the way best calculated to bring that happy restoration about, and to preserve and strengthen the connection between these provinces, and the parent State."

Lord *Glenelg* entirely concurred with the closing words of his noble and learned Friend, that the powers of the late act were given to protect the innocent and peaceable inhabitants of the colony, and to save the guilty from the consequences of their own violence. He agreed with his noble Friend, also, as to the general principles on which he stated the act ought to be carried into effect. He fully admitted, that when such large powers were given they ought to be exercised with great discretion, and as sparingly as possible. The act itself provided, that the powers it conferred were not, in any degree, to be exercised beyond what the exigency of the case required. The whole question at issue turned on the propriety of the proceedings which had been the subject of so much animadversion, and on the exigency that gave rise to them. That was really the practical question before them. His noble and learned Friend argued against the ordinances of the Canadian government, that they were irregular, that they were illegal, that the Governor had no right to issue such ordinances; his noble Friend argued further, that in issuing them he contravened the intention of Parliament in passing the act, and that there were various circumstances connected with these measures which aggravated their injustice and illegality. His noble and learned Friend had stated much for which they had the authority of his noble Friend alone; to that authority he (Lord Glenelg) was disposed to pay due respect, but he could not allow it to be infallible or peremptory in a case like this which was now under discussion. In allusion to the first class of offences, his noble and learned Friend had said, that he did not believe the individuals had confessed themselves guilty. No doubt his noble and learned Friend was persuaded, that such was the case, but he must be allowed to observe, that this was an assumption at variance with the ordinances, in which it was proclaimed, that they had acknowledged and confessed themselves guilty. His noble and learned Friend said, he had his information on authority, and doubtless he believed it correct; but he claimed for the government of Canada not to be condemned on an authority known to the noble Lord alone, and in complete contradiction to the words of the ordinance. With respect to another part of the ordinances, his noble and learned Friend had quoted several names in proof of the incorrect manner in which these documents were framed. His noble and learned Friend said, when last he touched on this question he was not able to express more than his belief, that a proper degree of care had not been exercised; but he could now supply the deficiency, having it in his power to state, that several of the names were not accurately given. He (Lord Glenelg) was not in a condition to contradict that declaration; but he felt himself called on to express his hope, that their Lordships would not allow a mere declaration of that description to weigh with them in estimating the merits of the government. His noble and learned Friend had denounced the ordinances with great force and eloquence, a violation of the law both of Canada and England; but what was the practical conclusion to which he arrived at the close of his violently condemnatory harangue? If the ordinances were, as his noble and learned Friend had described them, acts of gross injustice, what was the natural conclusion to which their Lordships would arrive? Was it to bring in a bill which distinctly stated, that they were for the service of the public? After hearing the severe denunciations in which his noble and learned Friend indulged in the course of his speech against the government of Canada for issuing such ordinances, might it not be expected, that the disposition of their Lordships would be so far from approving them as to say, "Let us not tolerate them for a moment; let them not disgrace British justice, British honour, and British law; let us declare, that they shall no longer offend—that they shall no longer insult the country?" What, however, said his noble Friend in this bill? In the second clause were these words,—"which ordinances cannot be justified by law, but are so much for the service of the public, that they ought to be justified by an act of Parliament."—Why what a declaration was that, after the strong denunciations which the noble and learned Lord had indulged in! The noble and learned Lord had said they might make what alterations they pleased in Committee, but was that the proper way of dealing with so important a matter? The great question was, whether these ordinances were justified or not by the exigency of the case, and having declared, that they were, before going into Committee, would they reverse their decision when they came there? Taking his noble and learned Friend's view, that the law was doubtful let them look at the position of Lord Durham, who found himself called on to take some step on his own responsibility. What did he do? He took the course which the public service required, and those who most condemned his measures, felt themselves compelled to vote in Parliament, that those measures, so illegally adopted, were "measures taken for the service of the public, and though not justified by law were such as ought to be justified by Parliament." He felt, that he might rest the necessity of the measures of his noble Friend on this very declaration in the bill of the noble and learned Lord; he felt, that he could not be called on to prove, that they were required by the exigency of the case, because they had the testimony of the noble and learned Lord himself to that important fact. He would now advert to the question of indemnity. It was not usual, he believed, to pass measures of indemnity till the matters to which they had referred had been brought to a close. It was not usual to grant an indemnity for a current transaction. But this bill contained what he must describe as an unexampled proposition; it provided indemnity for the continued exercise of an illegal act; and here was an act which was illegal, and the authors of which were liable to certain penalties, but it declared not only that they should be indemnified against those which they had already incurred, but also against those to which they would otherwise be liable hereafter. This was surely a new species of legislation. He believed it quite unexampled in the history of legislation to pass an indemnity Act which was to operate prospectively. The general purport and scope of this bill were, that certain doubts were entertained as to the illegality of the proceedings of the Government of Canada. Those doubts having been entertained, it was proposed to pass a declaratory Act, clearing up those doubts; and, at the same time, to pass a measure of indemnity for the protection of the parties who had acted on the doubtful construction. Of course, the necessity of legislation on the subject turned on the weight that was to be attached to the doubts entertained as to the illegality of the proceeding of the Canadian Government. Now, with very great submission to the learned authorities that had been referred to, he could not agree to that proposition of his noble and learned Friend, contained in the first section of this bill, which stated those doubts to exist; and thereupon proceed to enact as did the subsequent clauses. He had already stated, with respect to one part of the ordinance, that he admitted its invalidity. He alluded to the extension of the operation of the Act to the Bermudas; there could be no doubt but that was an error. But, on that subject, he begged to say, that, in his opinion, the better course to pursue, would be for the Government to write to the Governor of the Bermudas, informing him, that the parties who had been sent there were free, that they were not then subject to the restrictions which the Act imposed. That he considered the preferable course. With reference to the legality of the other Acts of the Government, and the necessity for a measure of indemnity, he had some further observations to offer to their Lordships. By the Canadian Act, the Governor was invested with the same powers of legislation as the Legislature of Canada possessed previous to the passing of that Act, with certain exceptions, which he would then stop to advert to. The legislative powers of the Canadian Legislature were as ample as those of any of our Colonial Legislatures. His noble and learned Friend had argued, with reference to the Act of 1774, that, by that Act, the criminal law of this country was transferred to Canada, and consequently, it was not competent to the Colonial Legislature to make any change in that law; but he (Lord Glenelg) begged to say, in the first place, and without fear of contradiction, it was clear, that when they spoke of the transfer of the criminal law of England to a colony, it could not be meant that the law of England should be applied to such colony in the exact state in which it existed in this country, no change being made in it to adapt it to the peculiarities, to the habits, feelings, and customs and institutions of a state of society differing materially from our own. In fact, when the criminal law of England had been transferred to our colonies, it had always been subject to certain modifications, such as the peculiar circumstances of those colonies required. He need not name the colonies; the rule had been observed in all; indeed, it was obvious, that no other principle could have been adopted, for, in some, very heavy punishments were considered necessary for offences, which, in others, people might be deterred from committing by punishments comparatively light. The Act of 1774, which transferred the criminal law of England to Canada, provided for changes that might be necessary at different times and under different circumstances. He contended, then, that the Colonial Legislature of Canada was empowered to make these ordinances by the Act of 1774, and the present Governor of Canada being invested with the power which previously belonged to the Colonial Legislature, the ordinances could not be considered illegal. The particular words of the Act to which he was referring, were "subject, nevertheless, to such alterations and amendments as the Governor, Lieutenant-governor, or Commander-in-chief for the time being, by and with the consent of the Legislative Council, shall, from time to time, determine and cause to be declared in the manner hereafter described." This provision was confirmed by the Act of 1791. [The Earl of *Devon* read the 15th section.] The object of the 15th section was, to provide, that no punishment should be imposed by any ordinances of the existing local government beyond three months' imprisonment and fine, without the consent of her Majesty in Council. It could not be denied, however, that the exigencies of the present occasion were such as to justify a departure from such a regulation as this. It was perfectly competent for the Governor-general of the Canadas in Council to exercise a discretion as to the measures which the necessity of the case appeared to require. The noble and learned Lord had referred to the proviso in the Canada Bill, which prohibited the Governor-general from "repealing, suspending, or altering, any provision of any Act of the Imperial Parliament of Great Britain, or of any Act of the Legislature of Lower Canada, as now constituted, repealing, or altering any such Act of the Imperial Parliament." He begged to state to their Lordships what the history of this proviso was, and what the intention of its author, Sir William Follett was, in introducing it into the bill, as far as he had been able, upon very good authority, to ascertain what that history and what that intention were. It originated in this way: During the discussion of this question in the other House Government was asked by some Members on the opposite benches whether they meant that the bill should authorise the Governor in Council to alter the act of 1791, or any act relating to tenures; to this question Government replied, that they had no such intention, but they thought that the period would be so short that the Governor and Council would not interfere with the subject at all. Upon which it was observed, that as there was no such intention, the clearest and best way would be to insert a proviso on the subject in the bill, so as to remove all possible doubts. It was clear, from the terms of the proviso, that it was intended to have a limited operation. The act of 1791 gave the local Legislature the power of varying or repealing the law respecting clergy reserves, There was an act of the Imperial Parliament, of 1824 or 1825, which gave the local Legislature the power to alter the Tenures Act, and there was an Act of the local Legislature which did alter the Tenures Act; and it appeared to him very apparent, from the terms of the provision itself, that it was simply intended that these Acts should not come within the power of the Governor in Council. The proviso evidently applied to the act passed by the Parliament of Great Britain in 1791, to the act passed by the Parliament of the United Kingdom in 1825, and to any act of the Canadian Legislature repealing or altering any such act of Parliament, so that this proviso was distinctly limited to these three points. It was clear that whatever use might be made of this proviso, or whatever conclusion might be drawn from it, it was restricted and limited to that purpose. He contended, therefore, that whatever doubts might be felt upon other parts of the act, there was no necessity for a declaratory act upon this part of it. No doubt, he contended, could arise out of this proviso with reference to the legality of the ordinances. His noble and learned Friend denied, that by the tenour of any general law the Governor-general with his Council had power to pass what were called *privilegia*—laws affecting particular persons only. The Governor in Council might suspend or repeal any other laws than those to which he had referred; he might suspend the Habeas Corpus Act, create new offences and new forms of treason, and yet his noble and learned Friend argued that he could not pass laws affecting only particular individuals. His noble and learned Friend by changing the ground on which he stood had weakened his argument on this point. It was evident that this was not a Declaratory Act, but a new law restricting the powers which had been given by the Act of this Session to the Governor in Council, because his noble and learned Friend considered that that Act gave him larger powers than he ought to possess. It was, however, an extraordinary thing that after having given the Earl of Durham these large powers, and sending him out of the country under peculiar circumstances of delicacy and difficulty—it was an extraordinary thing, he repeated, to narrow his power, and place him in straits which must lead to the most dangerous consequences. This was a matter of serious importance to Canada. That province was, happily, at present, in a state of tranquillity; but it was not to be denied that there were persons who were desirous of poisoning the minds of the people, and of exciting them to insurrection. Whatever, therefore, their Lordships might feel about these ordinances, it must, he contended, be admitted, that if means had not been taken to exclude the return of the persons who had been banished from the province, the principal duty of the Government would not have been performed. It was upon this account, therefore, that he could not consent to limit the powers given to the Governor-general by the Act passed during the present Session, and he could only wish their Lordships to consider whether the presence of the persons to whom he had referred could be otherwise than injurious. On these grounds he should oppose the second reading of this bill.

Lord *Brougham* in explanation said, that the whole of the 2d section of the bill referred to acts done, and not to acts hereafter to be done. With regard to the indemnity, he was disposed to protect the captain of the ship and other innocent persons acting in obedience to the ordinance of the Governor-general. But with respect to the ordinance which related to M. Papineau and fourteen others, who were banished without being heard, he meant not to extend the indemnity to that part of the ordinance, and he submitted that it would be proper to recall that ordinance immediately.

Lord *Glenelg* said, that the bill related to persons advising, or acting under and in obedience to any act, matter, or thing advised, or commanded to be done.

Lord *Brougham* observed, that he had taken the words of the clause word for word from an act drawn by Lord Mansfield.

The Earl of *Ripon* would not weaken the argument which had been put with so much force and precision by his noble and learned Friend. He confessed that he thought that his noble and learned Friend had stated a case which would justify the interference which his bill would effect, especially with regard to that part of the Act which was allowed by the noble Lords opposite to be inconsistent with the powers of the Governor-general, because he did not see under that admission how the Governor-general and the persons who had acted in obedience to his orders could do without an indemnity. His noble Friend the Secretary of State for the Colonies, by way of repairing the error committed in sending the persons who had confessed their guilt to Bermuda, suggested the device of writing to the Governor of Bermuda, directing him to let them go as soon as they got there. Now, this was a most extraordinary way of meeting a case of this kind of which he had ever heard. Either the Governor-general was right in doing what he had done or he was not. If he was not, there was a power vested in the Crown of disallowing any Colonial law provided the dissent of the Crown was expressed within two years after the passing of the Act. Now here was a Colonial law which it was impossible to carry into effect. Was it then, he would ask, possible for the Crown to be silent in this matter? It appeared to him to be necessary, and indeed inevitable, that his noble Friend (Lord Glenelg) and the Privy Council must advise the Crown to disallow the whole Act. That, he thought, was the most effectual mode of getting rid of this difficulty. He should, as he had said before, weaken the force of his noble and learned Friend's argument if he attempted to enter upon it, but it appeared to him to be impossible to carry on any system of good government in Canada, unless some stop were put to the confused, unprecedented, and extravagant mode of proceeding which was involved in these unfortunate ordinances.

The *Lord Chancellor* said, there could be no doubt as to the fact, that these ordinances could not legally operate beyond the limits of the province. The point was, as to their legality within those limits. The bill now proposed proceeded on the supposition of a doubt as to whether the Act, as it stood, did not authorise the proceedings which had taken place in the province, and the acts of attainder which had been made. It seemed to him, that there could be no well-founded doubt on the matter. The proceedings which had been resorted to had precedents in all countries where occasions of similar necessity had arisen. Whether the nature of each case was such as to justify the course which had been adopted by the Governor-general—whether he had taken care to make sufficient inquiry in every instance prior to taking active measures against the parties, there was no information to enable their Lordships to decide, nor had Government at present any means of giving that information. He would, therefore, abstain from entering upon this topic, and proceed to that part of the subject which it was practicable to discuss. Whether or not the existing Government in Canada, appointed under the Act passed this Session, had exercised their legislative powers discreetly, it was perfectly clear, that under that Act they had full power to make occasional and temporary local Acts affecting individuals or classes of individuals. The noble and learned Lord had assumed, that this point was doubtful in the imperial Act of this Session. Now, that Act, in so many words, recited that—

> "It shall be lawful, after proclamation made, for the governor of the lower province of Canada in council to make such laws or ordinances for the peace, welfare, and good government of the said province, as the legislature of Lower Canada, as now constituted, is empowered to make; and that all laws or ordinances so made, subject to the provisions hereinafter contained for disallowance thereof by her Majesty, and for receiving certain laws or ordinances for the signification of her Majesty's pleasure therein, shall have the like

force and effect as laws passed before the passing of this act by the legislative council and assembly of the said province of Lower Canada, and assented to by her Majesty."

This clause clearly gave to the new Governor in council the same powers which the legislature of the province formerly exercised, and there could be no doubt that this legislature had full power to pass any Acts it deemed fitting, under the Act of 1791, and had the clause stopped here there could not have been a moment's question on the point. When the noble Lord cited the Act of 1774, reference was made to the fifteenth section of that Act, which directed that—

> " None of the said ordinances shall have the power of imposing any punishment beyond three months' imprisonment."

But this had reference only to ordinances made by the Governor in council up to the period when a representative assembly was given to the province, which took place in 1791, after which time the legislature of the province had exercised full legislative power until the act passed which invested the present Governor-general with the powers formerly enjoyed by that legislature. Did the clause contain no other words than he (the Lord Chancellor) had recited, there would have been no grounds for even raising an argument upon the subject of the extent of the Governor-general's power to make such laws as he thought fit. There was, however, this proviso:—

> " That it shall not be lawful for any such law or ordinance to impose any new tax, duty, rate, or impost, or to alter the law in the province respecting the constitution or composition of the Legislative Assembly thereof, or respecting the right of any person to vote at elections of members of the said Assembly, or respecting the qualification of such members; nor shall it be lawful by any such law to repeal, suspend, or alter any provision of any Act of the Imperial Parliament of Great Britain, or of any Act of the Legislature of Lower Canada, as now constituted; repealing or altering any such Act of the Imperial Parliament."

His noble Friend had already stated for what purpose this proviso had been introduced. The object for which these words were introduced, was obvious, and he could have hardly believed that they could be misconceived. If it were not as he had described, it would be giving the Government of Lower Canada power to alter anything connected with the criminal law of that country, and by another part of the bill, it would be restraining the exercise of such power. The words referred to in the proviso had no such restraining power as was contended by his noble and learned Friend. The declaratory bill of his noble and learned Friend would leave, however, the whole difficulties of the case untouched, for he had proposed to enact, that they should not make any laws or ordinances, touching individuals, but at the same time proposed that the power should be continued as regarded the multitude. This bill left the doubts which it was alleged existed, exactly where they were. He concluded that there was no doubt as to the construction of the Act; and, therefore, that there was no necessity to pass a declaratory bill. The second clause of the bill of his noble and learned Friend, was of the most extraordinary nature, and after declaring that certain Acts of the Governor of Canada were illegal, it went on to make them legal, and to allow such proceedings to take place for the future. It would be most extraordinary for Parliament to declare that these Acts were illegal, and then to say, that the Governor of Canada or any person under him, might continue to act upon them. The proposed indemnity, therefore, was for what was clearly considered an excess of power, and it was proposed at the same time to continue this excess of power. He would then ask, did noble Lords really feel that there were serious doubts as to the construction of these Acts, and as to the power in the hands of the governor of Canada to pass acts of attainder. If this power was to be taken from that noble Earl, they would leave his government less power than was possessed by the government of the Upper Province, from which it was not thought necessary to take away the Legislative Assembly. The Governor of Canada, however, who was placed in the situation of the Legislature, was not to have this power, notwithstanding the difficulty of the situation in which he was placed and the dangers in which that colony was involved. He was sure, therefore, they would not take this power away from the noble Earl, which was essential to all government, and, above all, to one in the situation of Canada.

Lord *Lyndhurst* did not feel called upon to occupy any very considerable portion of the time of the House, but he felt called upon to make some observations. He must first say, that it was his impression, that this was a question of very grave importance, and that it should be treated, as it had been during the present discussion, with great order and moderation. He was ready to admit that the noble Earl at the head of the government of Canada, whom he was proud to call his Friend, had acted from the best possible motives, and with the best intentions. They had intrusted him with extraordinary powers, and if there was anything illegal in his conduct and administration, it was the bounden duty of that House to interfere, as the guardians of the law and the country; and he called upon their Lordships, if they were satisfied that there was anything illegal in the proceedings that had been described, to interfere for the purpose of rectifying the evils that would otherwise arise. They had been told by the noble Lord, the Secretary for the Colonies, towards the close of his observations, that the question resolved itself into two parts, of very different construction. With respect to the first part, he admitted and confessed, that the Governor of Canada and his council had been guilty of an illegal act, as far as related to transporting the persons alluded to in the ordinance to the Bermudas; but that with respect to the second part, that the proceedings in the colony were not only perfectly justifiable, but that they were perfectly legal; and he begged it to be recollected against whom this judgment had been passed. In the first place, then, it was understood, that the illegality of these proceedings was entirely admitted, and that the noble Earl had assumed an authority which had not been conferred on him by the Act of Parliament, and under it these persons had been banished to the Bermudas, and would be restrained and imprisoned there against law. The transaction then was admitted to be illegal, and these persons had been punished in a way contrary to the law of the land; and as it was admitted that these proceedings were contrary to law, and as the government of the country held the power of disallowing an enactment or ordinance of the governor of Canada which was contrary to law, it was their duty to disallow this proceeding; and when it had been acknowledged that by the local authority this law had been passed, and that it was not a legal proceeding, and also that the government possessed the power to disallow this ordinance, he could not believe, that it would not interfere for this purpose. Unless, therefore, it was distinctly stated by the noble Viscount, or by the noble Lord the Secretary for the Colonies, that the Government was prepared to disallow this law, he should feel it to be his duty to vote for the bill of his noble and learned Friend. With respect to this bill, it was meant to be a bill of indemnity for acts committed up to the present time by the Governor of Canada and his council; and this was intended as a protection if any illegal acts had crept into the administration of affairs in Canada. This bill also had been drawn up after one which was framed by one of the first lawyers in the country. If things were to be left in their present state, it would lead to endless litigation against all the parties concerned in carrying the ordinance into effect. He did not look to the noble Lord, who would be liable to suits both civil and criminal, for violating the law as regarded these persons, but to those individuals who held those persons in confinement contrary to law, and who removed them under restraint to the Bermudas: after suffering these restrictions contrary to law, they could immediately on their arrival succeed in obtaining a *habeas corpus*, and on the matter being argued they must instantly be enlarged, as the proceeding was obviously and notoriously illegal. The persons injured would also, no doubt, instantly commence proceedings for those illegal transactions against all who had any share in them, unless a bill of indemnity was at once passed. The noble Lord the Secretary for the Colonies had promised a measure of the kind next year, but the legal proceedings against those who were engaged in the illegal transactions he had described would be completed long before this bill of indemnity of the noble Lord could be passed next year. Therefore, when these individuals were acting under the authority which you declare to be illegal, and who were guiltless themselves of any wilful breach of the law, will you allow it to be said that you would not interfere or interpose to protect them? For instance, what would be the nature of the proceedings against Sir Charles Paget, who was a member of the council, and who had sent them under restraint on board the Vesta, with orders that they should be carried to the Bermudas? If Admiral Sir Charles Paget should happen to go to the Bermudas he would be liable to have both civil and criminal proceedings instituted against him for the part that he had taken in this illegal act. This was so clear and obvious not only as against the gallant Admiral, but against every person who had taken part in these proceedings, that he considered that they were bound to pass a bill of indemnity. He was convinced that he could satisfy the House in a few sentences not only that they were bound to pass this bill, but that the whole of the proceedings which rendered this measure necessary were illegal. At the same time he admitted he could trace all these proceedings of the noble Earl to the best possible feeling, and, no doubt in acting contrary to the Act of Parliament, he was influenced by humane considerations. It was intended by the Act of Parliament that the noble Earl should be guided and assisted by a council composed of not less than five members, that he might have a substantial council, and one well able to guide and advise him, and composed of able men, of discreet and prudent men, conversant with the law and constitution of the country. He would ask noble Lords whether they did not believe, that the noble Earl would be assisted by a council so constituted? But it now appeared, that he had appointed a council which was altogether illusory, and such a one as it never was contemplated by Parliament would be appointed. He had constituted it of the admiral, of two or three military officers, and of one person who, he believed, had belonged to the legal profession, but who had never had any very great or extensive practice. This council, it was intended, should advise and control and exercise strong influence over the Governor of the province. He did not believe, that the council, as appointed, would control or exercise any strong influence over the noble Earl, or that they would, in matters of constitutional law, form the advisers of the noble Earl. He would ask noble Lords, then, whether they were not satisfied, that the constitution of this council was illusory, and contrary to the Act of Parliament, and the wishes and intentions of both Houses of Parliament? It was to this cause, and to this cause alone, that he ascribed the violation of the law. If the council had been composed of men such as he had described, and were desired by Parliament, it never would have suffered a violation of the law, such as the present, to have received its sanction. He agreed with his noble and learned Friend in entertaining very serious doubts as to the construction of the Act of Parliament alluded to, and these doubts were not cleared up or removed; on the contrary, they were rather confirmed by the previous Acts of Parliament relating to Canada. By the 14th of George 3rd the criminal law of this country was by Act of Parliament transferred to Canada; in that Act it was called a humane and lenient system, and a just and pure system of law; and it stated that it should be transferred and acted upon in Canada, not merely in spirit and principle, but also in its form of proceeding; and it added, that no other rule of law should be acted upon in Canada. Therefore, by Act of Parliament, the criminal law of England was declared to be the law of this colony, and by some of the clauses of this Act the then legislature of the country, namely, the legislative council and governor, could alter and modify the law to meet the particular circumstances of the colony. This was confirmed by the Act of Parliament of 1792, and the power for altering and modifying the law was transferred to the new legislative body. This was afterwards extended by the Act of 1831. Therefore, he was justified in stating, that the criminal law of this country, with all its enactments and forms, was to be transferred to the colony of Canada. Now, the law with respect to high treason was part of the criminal law; and by the 14th of George 3rd, and by the 31st of George 3rd, this was transferred to the colony with the other parts of the law; and no alteration had been made in the law of treason in that place, or had been acted upon. As long as the legislature of Canada had continued to exercise its functions it had the power of altering the law, and there never had been any alteration made in Canada of the law of treason; therefore, the law of treason stood on the same footing as it did in England. They had then to consider the state of things that grew out of the suspension of the legislature, and the suspension of certain of its functions. It was true, that Lord Durham was to have, in some respects, the same power as the legislative assembly, but then the act that conferred it was accompanied by the restrictions that had been alluded to and described by his noble and learned Friend. These restrictions had been introduced by a learned Friend of his, who had assured him, that he never intended, that the proviso should be restrained in such a manner as had been described by the noble Lord, the Secretary for the Colonies. He had introduced it because he thought, that it was essential, that a person holding such a situation, and possessing such power as the noble Earl, should be restricted from making such alterations in the criminal law. What, then would be the effect if the noble Earl were allowed to change the law of high treason? It had been clearly shown to the House by his noble and learned Friend what the law of treason at present was; but an attempt had been made to make a new treasonable offence. The ordinance by which this was intended declared, that certain individuals named had absconded and withdrawn themselves from the pursuit of justice beyond the limits of the province, and it afterwards went on to state, that if any of those persons should at any time hereafter, except with the permission of the governor of the province be found at large, or come within the said province, they or he, in such case, should not be tried for the offence with which they were charged—not with high treason according to the existing law—" but that they or he shall in such case be deemed or taken to be guilty of high treason, and shall, on conviction of being so found at large, or coming within the said province, without such permission as aforesaid, suffer death accordingly." So that in point of fact, a new species of treason had been created by this ordinance which was wholly inconsistent with the letter and spirit of the criminal law, which it was the intention of the Legislature to confer on the colony by the 14th of Geo. 3d, and by the Act founded on it, namely, the 31st Geo. 3d. But supposing that the noble Earl had abolished the whole system of the existing law relating to high treason, would any man presume to tell him, that the noble Earl would not alter the whole Act of the 14th of George 3d.—the Act under which the English law of treason was introduced into that colony? There could be no doubt that such an abolition would be an alteration of the law, which would be contrary to the proviso in the late Canada Government Act; and he contended that this was equally an alteration of the new law which could not be justified. Indeed he had reason to believe, that the hon. and learned individual to whom he had referred, intended, when he proposed his proviso, that such an alteration of the law as the present should not be confirmed. The Act contained very full powers, and went to a great extent, as regarded the suspension of trial by jury, and the suspension of the Habeas Corpus Act in the colony, but it did not allow the governor to alter the law, and make a new species of treason. But assuming it to be a doubtful matter, when they passed this bill, did that House suppose that it was giving the noble Earl and his council of five individuals the power of passing bills of attainder. He was sure that such was never intended to be the case by the majority of that House, and the answer which he believed he should receive from every noble Lord was, that it was not intended by any one that such should be the case. Did the Houses of Parliament intend to give to the noble Earl and his associates in the council of five, the power of banishing any persons from the colony for life, and that without trial, without any notice of trial, indeed without any notice whatever to the individuals in question to come in and be tried, and without the opportunity of being heard in their defence. By this ordinance not one of these persons was to be tried, not one was to be heard in his defence, not one was to have notice of the proceedings against him, not one was called upon, or indeed allowed to be heard in reply to the accusations or charges against him; but by the ordinance as it stood these persons were to be banished for their lives to the island of Bermuda, and if they returned to the province of Quebec, they were to be arraigned, and " shall in such case be deemed and taken to be guilty of high treason, and shall, on conviction of being so found at large, or coming within the said province, without such permission as aforesaid, suffer death accordingly." Was not this contrary to the law of England, and opposed to the practice of criminal proceedings in this country? Here were persons who had never been arraigned for any crime—who had never been legally charged with treason—who had never been put on their trials—who had never been heard in their defence, these persons were subjected to the punishment of death if they ever returned to this colony. Did noble Lords ever intend to give such power to act in this arbitrary manner to the Governor of Canada and his council? He was satisfied that this ordinance was at variance with the criminal law in all its parts, and was directly contrary to the Act of Parliament by which both in its form and its character the criminal law was transferred to Canada. Did noble Lords mean by this Act of Parliament to make a new description of treason, which was to be determined on and settled in all cases, without trial, by the Governor of Canada and his five associates? What was the nature of this treason—what description of crime was to be punished? This was the allegation:—"You were charged with treason, and you absconded: you shall not have an opportunity of returning and being tried for high treason, with which you are charged; we will suppose you to be guilty, and if you are found at large, and come within the province without our consent you shall be tried for returning; and shall be adjudged a traitor, and shall suffer death accordingly." Was not this a new description of treason? Was this not directly contrary to the letter and spirit of all the acts of Parliament on this subject? By the statute the 17th of George 2nd, a new description of treason was enacted. It was enacted that the sons of the Pretender should be attainted of high treason in case they landed or attempted to land in England, and also those who corresponded with them, but this provision only existed during their lives. His noble and learned Friend on the woolsack asked if they would give more power to the government and legislature of Upper Canada where comparative quiet prevailed, than to that of the lower province, which was in such a disturbed state. He would reply that he believed, that this was intended to be the case by the Legislature. He fully concurred with his noble and learned Friend opposite in thinking that the object of the Legislature in sanctioning this act was to enable the noble Earl at the head of the government of Canada to make inquiries with reference to the future government of the colony. They gave the noble Earl extraordinary powers, and they sanctioned the suspension of the functions of the Legislature of Canada, because they thought that these inquiries could not be so efficiently carried on without extreme provision of this kind being made. It was necessary that the noble Earl should have the power in case of necessity, to pass ordinances which should have the form of law; but it never was intended that these legislative functions should be the precise object of his mission, but, that on the contrary, it was intended that he should be sent out to prosecute inquiry there. It was not considered whether he was to have less power or more power than the Legislature of Upper Canada, but it was said let him direct his attention chiefly to other subjects—that was, that he should institute inquiries with a view to obtain information to enable them hereafter to legislate. It was said to be most objectionable to adopt motions of this kind in the present situation of Canada; but how had these affairs been caused in Lower Canada, and how had these persons been treated against whom these bills of attainder had passed? Was there a single instance in the history of this country, even in the most troublesome times, where such a bill had passed without allowing time to the party to come in and be tried for the offence with which he was charged? This was the case with Henry St. John Lord Bolingbroke. He was attainted of high treason, unless he surrendered and answered to the charge of high treason within a certain period. Ample opportunity was given to him to appear and answer the charge against him. His noble and learned Friend had also referred to the case of the Duke of Ormonde, where the proceeding was similar. Indeed a case had never occurred in which a party had not an opportunity of appearing and making his defence in answer to the charge in a case of attainder. Such a thing had never been known in the history of the legal proceedings of this country as an instance of an attainted party coming into the country and being seized and punished for some very different charge to that of which he was accused. Among the reasons assigned by those who objected to the bill of attainder against Lord Bolingbroke, that chiefly urged in the protest in that House, was, that he had not such a space of time allowed him to come in as the interests of justice required. But what was the charge against Lord Bolingbroke? A charge of high treason was preferred against him by the Commons of Great Britain, and he was attainted if he did not appear within a certain time. No such thing as this enactment was in progress; no ordinance for his banishment for life was passed which inflicted the punishment of death if he returned, but in this case it was said if these persons appeared in the province again they should not be tried for their treason, but that they should be hung or put to death for returning to the colony and being found at large. If a man was indicted for felony and absconded nothing could be done otherwise than by the bill of indictment. If that was found, a *capias* was issued; and if he could not be taken, he might be outlawed by proclamation in all the county courts; but this was a proceeding which took up several months. [Lord *Brougham*: At least from nine to ten months.] He believed that it could not be done under this period, and he most strongly objected to the mode of proceeding proposed in the ordinance. He was convinced that no lawyer had any hand in framing this ordinance, nor any one who knew that it was a violation of the law and of the rules of justice. Every part of the ordinance appeared to him to be a violation of the rules of justice, and therefore, unless he heard a declaration from his noble Friend the Secretary for the Colonies that it was intended to advise the Crown to disallow the proceeding, he should consider himself bound both in honour and conscience to vote for the motion of his noble and learned Friend.

Viscount *Melbourne* entirely concurred with the noble and learned Lord, that this was a most important question, and required their most serious consideration. It had hitherto been discussed with great temper and moderation, and he trusted, that a similar course would be pursued through the remainder of it. He had no doubt whatever, that it was entirely with a regard to the interests of justice and the law, and for the preservation of its authority in the colonies, and for its maintenance in this country, in relation to this country, that induced the noble and learned Lord to bring forward this question, and to urge him to pursue it with the zeal and ability which he had displayed on the present occasion: but it was impossible not to feel, that it was of very great importance, that not only the legal and constitutional forms should be adhered to, but that also the administration of affairs in a country which was in such a doubtful state as Canada should be upheld and maintained. This subject did not involve a matter of trivial importance, but it was of the deepest consequence to the empire, that as little hazard as possible should be run in this question, as the result involved nothing less than the continuance of the connection of one part of the empire with the other—nothing short of the integrity of the empire—and, he would add, nothing short of the peace of the world. The noble and learned Lord had remarked very severely on an observation of his, namely, that the very circumstances that induced the House to confirm that Act, and to depart from the constitution of the country, and to fix upon a single man, in the person of his noble Friend, to legislate and administer the affairs of this colony, necessarily implied, that his conduct should be regarded with some degree of confidence, and he urged that great care and caution should be used in observations on the conduct of a person who had been trusted to such an extent. He not only would repeat that sentiment, but he had no hesitation in saying, that he thought, that it was most ruinous to the interests of this great empire, and that it was a most erroneous policy for the immense majority of this and the other House, to place such extensive powers in the hands of an individual, with apparently the general approbation of all parties—for there was no censure, and he had heard no complaint of the appointment—and now to proceed to bring these matters into discussion, with such imperfect information before them, the only result of which could be to weaken and shake the authority those Acts might otherwise have. He had thought, that they had given their confidence to this individual, and if they did not give their confidence, they exercised something very like laying a trap for this individual, to whom they had intrusted the exercise of such important functions; and they were acting in a dangerous spirit, they were acting, not like a high-minded and generous nobility, but more like a low and truculent democracy, or, perhaps, more like one of those jealous aristocracies which formerly existed, in which the members, in their wish to weaken and overthrow the authority of their opponents, sacrificed and destroyed the interests of their country. Before making attacks of this kind they should well consider the extraordinary nature of the circumstances of the case, and they should be very careful and cautious in their proceedings, lest they pursued a course which seriously affected the interests and welfare of the country. The noble and learned Lord in the observations which he had made on the manner in which the governor of Canada had constituted his council had dwelt on his not nominating on it any persons immediately connected with the colony, or with any parties in it. This course, he thought, was the best that could be pursued, considering the state of party feeling in that country, and the violence to which it was carried. His noble Friend the noble Earl probably, after mature consideration and observation on the spot, felt, that it was better not to have any persons on the council who were connected with either of the parties. He probably found, that it would be much more satisfactory to exclude all persons connected with the several parties in Canada, than to adopt some from one party and exclude the other. By pursuing the latter course he might have insured comparative weakness in the composition of his council, but as it was framed it probably would obtain the confidence of all classes. He had no doubt, that his noble Friend had acted wisely and prudently in this respect; and he had no doubt, that in this as in all other respects he had pursued such a course as would prove satisfactory to all classes in the colony. Was it likely, however, they could prove so satisfactory when it was found what severe censures had been cast upon those proceedings in that place? He could not help feeling, that the efficacy of his noble Friend's Government would be shaken by these continued attacks, and his utility would be diminished by pursuing the course, that had lately been followed by noble Lords. He thought, that it would be much better to bring forward an address for the censure of his noble Friend, and for his recall at once, than to pursue steps the result of which could only be to weaken his authority and Government, and the end might be the loss of those colonies to this country. He had no doubt, that the tendency of those proceedings was such as he had stated. He considered the continuance of the present Government to be comparatively speaking, as nothing, but the integrity of the empire was something—the existence of this great empire in all her power and integrity was something. He regretted the language that had been used and the course that had been pursued; and he was the more surprised at it after they had been told by the noble Duke to exert themselves, and to take care and be strong, and yet after all they had done, after all the efforts they had made, and all the exertions they could use, they were to see the whole marred and destroyed by such proceedings as noble Lords had been pleased to pursue with respect to this subject. What he said might be very unfitting—might be entirely without foundation; but his firm and sincere opinion was, that the course pursued by their Lordships upon that occasion, that the encouragement afforded by them to the motion then before the House, was in the highest degree perilous. It was not his intention to go into the legal point of the question. The object of the bill then before their Lordships was, to declare, that the Governor-general in council should not have the power to pass bills of pains and penalties, nor bills of attainder. Bills of pains and penalties were always very unfortunate measures to be compelled to resort to; but in times of such an unhappy nature as those which prevailed in Canada they were frequently indispensable. And considering the state of that country at the present moment, he certainly must say, that there appeared to him to be no power more necessary to those who were called upon to administer the government than the power of adopting these extraordinary measures. If ever resort to such powers was justifiable it was under such circumstances as those which at present prevailed in Canada. It was not a matter to declare openly, where everything that was uttered was spoken of again, not only in the metropolis, but throughout the whole world; but the noble and learned Lord must know, that when Lord Durham arrived in Canada, he found the prisons full—found many persons proscribed—and found the country a prey to the most violent animosities. Under these circumstances, with the view of satisfying the feelings of the whole community, and, unquestionably, with a feeling of amenity, not of pressing the utmost severity of the law against these persons, the noble Earl resorted to the measures he had adopted, and which were now made the subject matter of complaint. The account which the noble and learned Lord had given of the first class of persons mentioned in these ordinances was correct. He apprehended, that they did not technically plead guilty—that they were not formally put upon trial—but they furnished a confession, and upon that confession these measures were taken with respect to them, measures such as there were, unquestionably, precedents for, in times of a similar character. Those persons who had absconded from the province, and against whom warrants had been issued, certainly stood in a very different position. As far as they were concerned, he was not prepared to state, that there was any precedent for the course which had been adopted. He believed, there was no precedent in which a day had not been given for the parties to appear and surrender to trial. But it was impossible, that this course ofproceeding on the part of Lord Durham and of his council could have been accidental—it was impossible, that it could have been adopted from ignorance—impossible, that it could have been adopted from not knowing the state of the law. Their Lordships might rest assured, that there was some strong reason for it, and he thought it would be wise before they condemned the conduct of the council to ascertain what that reason was. If their Lordships thought they were legislating for a country in a regular state — for a country in which what had taken place had not been attended with any evil consequence—then, indeed, they might proceed upon all the rules of law which had been so strongly insisted upon by the two noble and learned Lords. Then, if anything that was usual had been departed from, any formality omitted, the noble and learned Lords might come forward and announce it to be wrong and erroneous; but their Lordships were to consider, that they were legislating for a country in a very different state both with respect to this country and to other countries which bordered upon it. Legislating for a country in such peculiar circumstances as regarded itself, and so peculiarly situated as regarded other countries, he must say, that it required, that their Lordships should be cautious before they came to a decision which might involve much heavier consequences than they were aware of. He had a great respect for the profession of the law though noble Lords always said he was very ignorant of it. But this he must say, that let men be what they would, let them have of nature the greatest possible powers and the most enlarged understanding, the profession of the law did little better than invariably fetter their understandings. He thought, that the House had suffered in no small degree from that fettering of the understanding in the discussion upon the present question; and when they had an insurrection in the colonies—when they had encouraged a feeling of disapprobation as to the course pursued to suppress that insurrection—when they had done their utmost (without the intention of so doing) to encourage those who were the enemies of the country, it would, he thought, be but a very poor consolation when the worst came to the worst, to know, that they had heard the very best special pleading upon the subject. That unquestionably was his feeling upon the matter; he thought they were a little too much cramped in the consideration of so extreme and so important a measure by the strict rules of law. It was needless for him to say, that he should oppose the second reading of this bill. He thought, that the second clause deprived the Governor-general of Canada of a power which he ought to possess, and as it was not yet exactly known how that power had been exercised with respect to the Bermudas, it did not appear to him to be necessary at that moment to pass a bill of indemnity. Certainly, when he considered the moral effect which such a law must have in Canada—when he saw, that it amounted in point of fact to nothing more nor less than a strong and direct condemnation of the policy pursued in that country—he could not either in his conscience, or from a regard to the interests and welfare of the empire, consent to become a party to it.

The Duke of *Wellington* said, after what had passed at the commencement of the Session, he hoped that their Lordships would allow him to address a few words to them on this subject; and he assured them, that they should be few indeed. The noble Viscount, as usual, taking advantage of the support given to him on former occasions, had thought proper to turn round on the noble Lords on that side of the House, and reproached them with the consequences of the measures produced by his own council, and brought forward by his own Administration. The noble Viscount told them, that they did not object to the appointment of Lord Durham to be the Governor-general of Canada; that they did not object to the powers confided to hm; that they urged his Government by all the means in their power—referring particularly to him (the Duke of Wellington)—to send out large forces and take care to be strong in that part of the world; advice which he admitted, he did repeat over and over again, until he had fatigued them, and the House, and himself in giving it. But why did he not object to those powers being given to Lord Durham? Because, seeing the Government in difficulties, seeing the colony in a state of rebellion, and seeing that the Government had confidence in another place, he thought it was not his duty to excite opposition to measures which they thought it might be proper to adopt, and therefore he took them all upon their recommendation. Very possibly he was wrong in so doing; indeed it appeared that he was wrong. But he took the course which he considered it his duty to take. He had declared, that he would not follow the example of those who, being convinced of the certainty that the country would be involved in a war, thought proper to oppose all the measures that were necessary for carrying on that war. Neither would he deny assistance to those who were absent, and who were carrying on the government to the best of their ability; but he would give the Government a fair support, in order to pacify a country which might be in a state of war or rebellion. That was the course which he had followed on the occasion alluded to by the noble Viscount. With respect to the noble Earl at the head of the Government in Canada, he was personally unacquainted with him; and he considered, that the noble Viscount and her Majesty's Government ought to have known best who was most qualified to act as Governor of Canada, and he had therefore raised no objection to the appointment of the noble Earl, or to the powers with which he was intrusted, except so far as he had made a few observations against the form of the convention which it was proposed to establish at Quebec, for the purpose of framing a constitution. Such was the course which he (the Duke of Wellington), and those who acted with him, had pursued on the occasion to which the noble Viscount had alluded; and let him ask their Lordships, what had followed that act of criminality, on the part of his side of the House, with which they had been charged by the noble Viscount? The noble Earl at the head of the Government in Canada, was appointed under an act which gave the Queen the power of forming a special council; and what did the noble Viscount do in reference to that portion of the act? Had the noble Viscount performed his duty? Had he done what, under the act, he was required to do? Had he given instructions to the Governor of Canada, as to what persons he was to appoint as members of the Special Council? Had the noble Lord, the Secretary for the Colonies, as in the case of Lord Gosford's instructions, which, he believed, were sent out after fifteen months' preparations, informed the Governor of Canada what individuals he was to appoint to the council, or had he stated the class of persons from whom the members of that council were to be selected? The noble Baron ought to have been able to have pointed out the persons best qualified to act as members of the council; but had he told the Governor that he was to trust this person or to distrust that, or had he given the noble Earl any information whatever to guide him in the formation of the council? No; the noble Lord had done no such thing. The Government had not performed the duty which the act imposed upon them; they had given no instructions as to the persons to be appointed members of the council, and they had given to Lord Durham the full and sole power of nominating and appointing the members of that council. Without any instructions on this most important point, the noble Earl went out to Canada; and what did he do upon his arrival? Did the noble Earl appoint, as members of his council, persons intimately acquainted with the condition of Canada, and conversant with the laws and with the constitution of the country? No, the noble Earl had not done so; but, on the contrary, he had appointed his own secretary and his own aides-de-camp, as the members of the special council; and then the noble Viscount came forward and told their Lordships on the Opposition side of the House, that they were responsible for all the measures, and for the consequences of all the measures, which the Governor, with his council so appointed, might adopt. He would tell the noble Viscount, that he (the Duke of Wellington), was not responsible for those acts; and that it was the noble Viscount who was responsible for the appointment of the special council, and for its acts; and he would further tell the noble Viscount, that he considered the council which had been appointed, to have been the cause of all that had passed since—of all those measures which were now complained of, and of all those illegal proceedings which their Lordships were then discussing. The noble Viscount had pointedly alluded to him; but he would remind the noble Viscount, that no man had made fewer observations in regard to the act which had been passed at the commencement of the Session than he had; and he had never made any remarks, unless when he had felt it to be absolutely necessary, in order to elucidate any point in dispute. But although he, and those who had acted with him, had supported the Government in a case of great emergency, and had given their sanction to a measure which they believed necessary for the purpose of restoring peace and tranquillity to Canada, yet was that measure to be carried into effect illegally, as the noble Viscount had allowed it had been, and was Parliament to see those illegal acts and take no notice of such proceedings? Was that the way he should have been treated by noble Lords opposite, had he been in office? Would they have requested Parliament to shut its eyes upon such proceedings, had he filled the office which was filled by the noble Viscount, and would not such acts, had they been done by him, or under his sanction, have been loudly and universally condemned? He came now to that part of the question which was undoubtedly the most important; and the noble Viscount, as in the former instance, threw upon noble Lords, on his side of the House, the consequences of the recent proceedings of the Governor of Canada and his council, which were now under discussion by their Lordships. The noble Viscount said, that one of the measures adopted by the Governor and his council, was illegal; and the noble Lord, the Secretary for the Colonies, and the noble and learned Lord on the Woolsack, had concurred in the illegality of that part of the ordinances which had relation to Bermuda. Now, that ordinance had been regularly brought under the consideration of the House, and noble Lords opposite having admitted its illegality, he would ask their Lordships whether he, or those on his side of the House, were responsible for that illegal proceeding? Not a bit. The noble Earl who had promulgated that ordinance, was responsible in the first instance; and the noble Viscount was responsible for the consequences of that act, and not those who had given the Government a fair and steady support. The noble Viscount objected to the bill of the noble and learned Lord; but he would tell the noble Viscount, that it was impossible to do without that part of it which went to indemnify those who had carried the ordinance into execution to which he had alluded. Justice demanded such an act from them, and they could not refuse to indemnify those officers, whether in Canada, at sea, or in Bermuda, to whom the execution of the ordinance had been intrusted. With respect to the other part of the ordinance—namely, that which related to persons not yet in custody, that also the noble Viscount threw upon noble Lords on his (the Duke of Wellington's) side of the House, as if they were the responsible party, in order that the noble Viscount might extricate himself from the difficult position in which he found himself placed. The noble Viscount said, he would vote against that part of the bill which had reference to this portion of the ordinance, and said, that it would be more fair to proceed directly by an address to the throne, for the recall of the noble Earl at the head of the government in Canada. With respect to the act which had been passed at the early part of the Session, he had no desire to pass a declaratory bill, but, on the contrary, he wished the Government to do something which would prevent the necessity for adopting such a course. A grossly illegal act had been committed—not a mere technical error, or one having reference to small or nice points of law—but, as had been laid down by the noble and learned Lord opposite, and by his noble and learned Friend near him (Lord Lyndhurst), an illegal act of great magnitude, and relating to points of the most grave importance—an act so clearly illegal that no man, capable of reading an act of Parliament, or of understanding the first principles of justice, could doubt of its illegality or of its impropriety. It was impossible that the people of this country could suffer any man to be driven into banishment without trial, or that they could allow him afterwards to be condemned to death without having been convicted of any crime beyond that of returning to his country, from which he had been illegally banished. But had it never occurred to noble Lords opposite, that the effect of this part of the ordinance would be to force all the discontented persons who were thus banished from Lower Canada into the Upper Province, There was not a single word in the ordinance against their doing so, for they might all go into Upper Canada if they pleased. Was that desirable? Was it to be wished that those persons should be forced into a peaceful colony, where they might exert themselves to weaken the loyalty of the inhabitants? He would again repeat, that he had no wish to pass a declaratory act, and if the noble Viscount would say, that he would take steps to set the matter right, and to prevent such proceedings in future, then he might rest assured that a Committee of their Lordships' House would not push the provisions of the bill further than was absolutely necessary, and than was required for the indemnification of those persons who had carried the ordinance into execution. He begged their Lordships' pardon for having trespassed so long upon their time, but he really felt, that he had not been fairly treated on this subject by the noble Viscount, and that some explanation was necessary on his part. He had ever given her Majesty's Government a fair and candid support, and that support had been given upon principle; because he was desirous to do all in his power to relieve the Government in a moment of difficulty, and to restore peace and tranquillity to Canada. How, then, the noble Viscount could say, that he had laid a trap for the Government, he was at a loss to comprehend, for the proceedings then under discussion had occurred as the consequence of noble Lords opposite having themselves neglected to perform the duty which the act imposed upon them, and which required them to superintend, with care and attention, the formation of the council and the proceedings of the Governor.

Viscount *Melbourne* said, the noble Duke was mistaken in supposing that he had alluded particularly to the noble Duke in the observations he had made. What he had meant to say was, that the Legislature having intrusted the Governor of Canada with large and important powers, they must also give confidence corresponding to the powers granted, and he did not mean to allude to the noble Duke personally, but to their Lordships generally.

Lord *Brougham* said, that after the powerful and eloquent speech which the noble Duke had delivered, and which had made so strong an impression upon their Lordships, it would not be necessary for him to take up much of the time of the House in replying. His noble and learned Friend upon the woolsack had condemned the arguments he had used on moving this bill, but, although he was willing to put confidence in the legal judgments of the noble and learned Lord, yet, to his political opinions, when delivered in favour of his party, and when that party was hard pressed, he was unwilling to give an equal degree of confidence. The noble and learned Lord had argued, that there could be no doubt as to the proceedings of the Governor of Canada, and as to the meaning of the act which had been passed; but he contended that there were great doubts, and consequently that a declaratory bill was necessary. He called upon their Lordships to pass the bill, for he believed it would tend to save Lord Durham from much mischief; that it would serve as a warning to him, if not in respect of the choice of his advisers, at least in making him cautious in taking their advice, and in reminding him that his power was not absolute. He really thought that their Lordships ought not to separate for the long recess without counselling the Crown to revoke the illegal order in question.

Their Lordships divided: Content 54; Not content 36:—Majority 18.

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De Grey
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Devon
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Glengall
Haddington
Harrowby
Jersey
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Brownlow	Burlington
Buccleuch	Meath
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TITHES (IRELAND).] On the motion of Lord Melbourne, the Tithes (Ireland) Bill was read a third time.

On the question that the bill do pass,

The Earl of *Clancarty* addressed their Lordships as follows:—I beg to assure your Lordships that it is with much reluctance, and only through a paramount sense of duty, that I rise to object to the bill now before you. At this late hour, and at a stage of the bill when opposition to it can hardly avail, I shall trespass but for a few minutes upon their Lordships' indulgence. I could wish, however, to preface the few observations I am desirous to make, by expressing the very great regret I feel that I am compelled to differ from many noble Lords on this side of the House to whose sound political views and opinions I am generally disposed to yield deference and respect; but, who, by their support of this bill, amended though it has been in Committee, appear almost to have allied themselves with the hostile policy of her Majesty's Government towards the Established Church in Ireland. I am aware, my Lords, of the great responsibility that attaches even to so humble an individual as myself, in offering opposition to what purports to be a settlement of the long agitated, and now difficult question of the tithe revenues of the Irish Church, but humble though I am, I feel that I should incur a much graver responsibility were I either by my vote to agree to, or even by my silence to acquiesce in, the passing into a law of a bill which, notwithstanding the countenance it has met with, I can only look upon as an unjust and arbitrary interference with the rights of private property; as giving, impliedly, at least, a sanction, and a very dangerous one, to all the attacks that have been made against the Irish branch of the Established Church; and as crowning the resistance that has been made to the vested rights of the owners of tithe property, with a success that cannot fail to be of very dangerous example, and to render all other species of private property henceforward insecure. My Lords, you are going by this bill to abolish for ever in Ireland the ancient title under which the Established Church there has always claimed her revenues. Are you prepared to do the same thing in England? You are going to curtail for ever by one-fourth, the incomes of her already distressed and impoverished clergy, after having subjected them to the further burthen of the new poor law, and for the sake of an uncertain, and at best, a very transient pacification of the tithe troubles in Ireland, you are going to exonerate the tithe defaulters, men who have only made default through a wilful determination to resist the laws, from all further obligation to pay the clergy the sums they have thus wrongfully withheld from them. My Lords, you are not warranted in thus aggravating the wrongs of that persecuted, but truly meritorious body, the Irish clergy. You are treating the wrongdoers as the party aggrieved, and subjecting to a heavy penalty, the party really injured, and that too with the facts of the case fully before you.—As well might your Lordships thus interpose between a landlord, however kind and indulgent and some refractory tenant, who turned out and refused to pay him any rent. Your Lordships might as well interfere to compel a landlord so circumstanced, in order for a season to appease the troubles upon his estates, to forego all his outstanding claims against his tenants, and, together with his title-deeds, to surrender one-fourth of his future income for the benefit of some of his more substantial tenants who should be his security for being henceforth paid the remaining three-fourths. It would be just as fair and just, as politic, for the Legislature of the country thus to interfere with a landlord's rights, as it is now intended to interfere with those of the tithe-owners whose arrears you are going to confiscate, whose incomes you are going to curtail, and whose high and ancient title you are going to cancel, and all for what purpose? To tranquillize Ireland, or rather to endeavour to soothe and conciliate some refractory tithe-payers—Protestants as well as Roman Catholics, land-owners as well as landholders, who, having purchased their lands or taken their farms subject to the payment of tithe, and therefore, at a cheaper rate, have no plea whatever for opposing a stipulated payment. Away, my Lords, with the pretence of conscientious scruples and religious feelings, where honesty, in a transaction merely pecuniary, is thus lost sight of. Religion might as well be pleaded in justification of the assassinations and other atrocities that have been perpetrated in the anti-tithe warfare, but which, in my opinion, and I should think, likewise, that of your Lordships, give evidence rather of the total absence of all religious influence, and of the crying want of moral and scriptural teaching, as well as of a good government, among a people so easily incited to the commission of crime, such ready instruments to execute the designs of reckless and unprincipled politicians. My Lords, if private rights are to be surrendered as this bill proposes, if the law of the land is to be altered to suit the whim of a party who only acknowledge the existence of law to set it at defiance, instead of being upheld for the security of those that look to it for protection; if men who dishonestly, and in the teeth of the law, withhold the property of others and appropriate it to themselves, can find apologists and favour within the walls of Parliament, I must say, that the example is not one calculated either to improve the morals of the Irish people, and to restore among them that respect and obedience to the law, that social happiness that has been so long banished from Ireland, and which can only exist under a vigorous and impartial administration of the functions of Government. It is not, my Lords, an example calculated to justify, still less to strengthen the confidence with which under our free constitution, the nation at large, the Irish people, the Roman Catholics as well as the Protestants, look, and have a right to look, to Parliament for protection against bad government. It is, in fact, a denial of that protection to the clergy of the Established Church, to which, as a class, they have a peculiar claim, as well upon the ground of impartial justice as upon that of positive desert. My Lords, this bill has been proposed to Parliament in consequence of the recommendation from the Throne, as a settlement of the tithe question, and I am the last person to deny, that a question that has been the cause of so much bloodshed and unhappiness in Ireland, ought promptly to be set at rest. But what are the claims of this bill to its being considered as a settlement. It gives satisfaction to no one, and in principle, is disapproved by all. It is, my Lords, a settlement based upon palpable injustice, and one to which your Lordships can only assent in a spirit of surrender. As such what hope does it hold out of future peace? What is there in the past history of Ireland to warrant the hope that it will not prove worse than a delusion? Parliament may give the public money to indemnify the tithe defaulters against being compelled to pay what they have illegally withheld; but the grant will be no otherwise valued by them—it will be no otherwise considered in Ireland than as it carries with it the sanction of Parliament to the resistance made to a Protestant establishment in Ireland. This principle is henceforth conceded. How then are we to anticipate peace, security, permanence to the Church, at least in the enjoyment of its revenues, as a probable result of the provisions of this bill. My Lords, I have looked in vain for any such promises or anticipations in the speeches delivered here or elsewhere by the advocates of this measure; I rather find that the opinions of both its advocates and its opponents are alike prophetic of future troubles, and of renewed attacks against the Established Church. Nay, I may almost add, that there is, at least, one Minister of the Crown, a noble Lord in the other House, ready when the occasion shall offer, to place himself at the head of the hostile movement. My Lords, it is not by giving up little by little—it is not by extinguishing tithes in name, and substituting a rent-charge—it is not even by such a violation as the hardship now to be inflicted upon the Irish Protestant clergy involves, that the enemies of our Protestant Church, the party with whom it seems her Majesty's Ministers are content to share the government, are to be satisfied. It is the total destruction of the Established Church that they have immediately in view, and that they are determined to effect, and the present bill is no otherwise accepted by them than as an instalment of their demands. So much for the settlement now before you. I most readily admit, my Lords, that prior to the great era of Catholic emancipation, there was a sufficient and just ground for discontent among the Roman Catholic party in Ireland—they had a just right to pray for an alteration in the law; but Parliament should bear in mind that, at the time of the passing of the Catholic Relief Bill, by which Roman Catholics and Protestants were placed upon as perfect an equality as was consistent with the existence of a State religion, the future security of the Established Church was guaranteed by the most solemn promises and assurances, as well as by engagements in the act itself, the most binding and sacred. Why, then, again make terms for the Church—for I am told we are making the best terms we can for it? Why, by so doing, waive the security then given, and recognise as legitimate those acts of aggression which are totally inconsistent with the spirit as well as the letter of that solemn compact. Why raise up a new Catholic question, which must eventually involve a doubt of Protestant property being allowed to exist in Ireland? I might, my Lords, hesitate to oppose, though I never could assent to, this bill, objectionable as I think it, if I believed that the clergy were consenting parties to its provisions. After all they have gone through—the years of sorrow, suffering, and privation they have endured, they are entitled to the sympathy of Parliament and to present relief; but where is there a single petition from the Irish clergy in favour of this bill? where are the persons authorized on their part to agree to the compromise here proposed of the large amount of debt due to them?—Where is there consent to the proposed curtailment of one-fourth of their future incomes?—There is none whatever. Much, my Lords, has been said about what will satisfy the people of Ireland; but the clergy, whose vested interests are at stake, have surely as good a right to be consulted.—There is a matter connected with the question before your Lordships to which I would wish to draw your attention. I am far, my Lords, from doubting the uprightness of intention of those who in this, and the other House of Parliament, have, in their support of this bill, constituted themselves as arbitrators or peacemakers between the tithe-owners and the tithe-payers. I feel confident, although I differ from the policy by which they propose to effect it, that with the great majority in both Houses, the object, the sole and benevolent aim has been to endeavour, at a great sacrifice of principle, to obtain for Ireland, and especially for the Church, the very desirable boon of peace. Such, I am sure, has been the actuating motive of the majority of those by whom her Majesty's Ministers have, in this instance, been supported; but although I feel assured that in general there has been a rectitude of motive, I cannot help remarking which must also have occurred to others, that there must be in both Houses of Parliament many, who, like myself, have a direct pecuniary interest in the passing of this bill. It is not my province to inquire whether there were any Irish landlords who elsewhere voted for appropriating to themselves three-tenths of the tithe composition upon their estates, nor how many were afterwards satisfied, for the smaller consideration of twenty-five per cent., to become securities to the clergy for the payment of the remainder. No doubt there may exist greater difficulties in the way of collection in some places than in others—that where liberal opinions have been most in fashion the laws will be most in contempt; but as a landlord having estates in the county of Galway, the most Roman Catholic county perhaps in Ireland, who would be entitled under this bill to near 100*l*. a-year abstracted from the moderate and well earned incomes of the working clergy, which they have regularly received, I do feel that my vote given in support of such a measure would be justly open to much animadversion, if not to suspicion. This, my Lords, is a consideration that ought not to be overlooked—the importance of having the tribunal quite above all objection, and to this end it appears to me indispensable, that the clergy should be parties consenting to whatever you do. I fully concur in the expediency of an alteration being made in the present mode of paying the clergy, and that it would not only facilitate the collection of their incomes, but be of much benefit to the country at large—to convert the tithe composition into a rent-charge, payable by the first owner of the estate of inheritance, as this bill proposes; and I further agree with the preamble of the bill, that a fair and reasonable allowance should be made by the clergy for the greater convenience obtained for them, and as compensation to the landholder for the trouble of making this additional collection off his estate. But the spirit of the preamble of the bill seems to be quite lost sight of when in the seventh section it goes on to enact that the rent-charge shall only amount to three-fourths of the tithe composition. I can see no reason, nor have I heard of any why the charge for collection should be fixed at a higher rate than that proposed in Lord Stanley's Act, 15 per cent was then, in 1832, the amount of compensation proposed for collecting in times of equal difficulty and excitement, the tithes then payable by the occupying tenant, holding under leases. It was offered by way of a bonus to induce the landed proprietors to undertake the collection, and it certainly is as much, to say the least of it, as in any civilized or well-governed country ought to be allowed for the recovery of a first charge payment off the land. The fact seems to be quite lost sight of, that tithes are a first charge upon the land, and that the parson's title is superior to that of the landlord. Great as would be the deduction of fifteen per cent, however, for the advantages to be derived from the conversion of tithes into rent-charge, I would readily consent to it. I believe it to be fully sanctioned by the wishes of the clergy, and it would, in fact, be (did the bill go no further) but an act declaratory, and giving more immediate effect to the existing law, which, if left to itself, must, by the falling in of leases, render at no distant period, the tithe composition virtually a rent-charge, payable by the landlords only. But to return to the bill now before the House, all that it proposes in the preamble, as compensation to the owners of lands, is a reasonable allowance. Now, my Lords, admitting the propriety and justice of the proposition, it was surely incumbent upon her Majesty's Ministers, in bringing forward this bill as it originally stood, to show, by what process of reasoning, they arrived at the conclusion, that thirty per cent was that reasonable allowance for collecting, be it remembered, a first charge incumbrance upon the land, and how they came afterwards to be satisfied, that twenty-five per cent, was a just, a sufficient amount to deduct from the Church. It is quite clear, they cannot both be fair, and that if twenty-five per cent is the sufficient charge, thirty per cent would have been wanton and downright robbery. My Lords, is it fair that the property of the clergy, or of any class of men, should thus be trifled with—that it should be only owing to the mere accident of Ministers being beaten in the House of Commons, that a fifteenth of the incomes of an entire class of men were not taken from them? Her Majesty's Ministers are certainly the last persons who should have been the authors of such a scheme of plunder. I think some explanation is further due to the country, how it happens, that under the auspices, and with all the boasted advantages of a liberal administration, the expense and risk of collecting money from the land, should be estimated by her Majesty's Ministers at double, what it was fixed at in 1832, and at five times the amount that was formerly charged for what is, after all, but mere agency—five per cent, used formerly to be paid—but by this bill, the charge is raised to twenty-five per cent. The noble Viscount will hardly be able to reconcile this growing insecurity of private property with the existence of good government, although it certainly appears that it can co-exist with a Government of what are called liberal principles, but it is surely strange, that under such circumstances, the viceregal government in Ireland should pretend to a character for firmness and impartiality at the very time, moreover, when it sanctions the introduction to parliament of a bill, ratifying, as this does, the abandonment of the vested and undoubted rights of one set of men, in obedience to the clamour and violence of a party. This surrender of the Sovereignty of the laws, this abandonment of the rights of individuals, this tame and abject submission to the dictation of a party superior to the regular Government of the country, form a suitable commentary upon the Irish policy, the firmness and impartiality of the noble Viscount, and Lord Mulgrave's administration, and should make your Lordships pause before you hand over the interests of the Church to such hands. If it is seriously intended, that the sovereignty of the laws should be restored in Ireland, if the Church Establishment is to be upheld, and her clergy protected, if the principles and terms of the union of the two countries are to be maintained, a very different tone must be held, both in Parliament, and by the Government. Acts such as the present, tend to weaken that union, to degrade the laws, and to disgust those, whose interests are embarked in the future welfare of the country, in full reliance, that the terms of the union would not be departed from. I would warn your Lordships, therefore, that if you are not prepared hereafter, wholly to abandon the church, you should hesitate to pass such a bill as that now before you, framed by a ministry, whose words as well as acts are opposed to the Protestant Establishment in Ireland, and which has been prepared under the sanction, and in concert with a party, avowedly bent upon the destruction of the Church, in order to favour their views, as far as, in the present temper of Parliament, it was thought prudent or possible to push them. Such, my Lords, I believe, was the general tenor of the apolegetic speech of the Minister, by whom this bill was introduced in another place, in accounting for the absence of the appropriation clause. I have trespassed upon your, indulgence too long, and I fear, that at its present stage, it was idle in me to state objections to a bill which has been virtually agreed to; I nevertheless feel, that I ought, entertaining the opinions I had stated, to move, as I now do, by way of amendment, that the bill do not pass.

Amendment negatived, and the bill passed.

Post Office.] Viscount *Melbourne* moved, that this bill be read a second time.

The Duke of *Richmond* moved, as an amendment, that the bill be read a second time that day six months. He should wish to refer the measure to a select committee; but it was now far too late in the Session to give it the consideration it deserved. He objected to dividing the responsibility of managing the department among three persons, which he did not think was calculated to add to the efficiency of the administration.

The House then divided, when there appeared, for the second reading of the bill—Contents 25; Not Contents 32:—Majority 7.

Bill lost.

Customs Bill.] On the motion that the Customs Bill be read a third time,

The Duke of *Wellington* observed, that it was necessary that something should b done to allay the excitement which prevailed out of doors, in consequence of a clause which had been introduced into this bill, giving the Customs the power of imposing an *ad valorem* duty on all perishable fruit imported from abroad into this country.

The Duke of *Richmond* corroborated the statement of his noble Friend as to the excitement which this clause had created in the maritime counties nearest to France. He understood, that when the Customs placed an *ad valorem* duty upon any commodity, the owner of the commodity had the option of either paying the duty, or of leaving the commodity in the possession of the Customs, at the value which they had placed upon it. As fruit was a perishable commodity, it was not improbable that when any dispute arose as to the value, it would be left in the possession of the Customs. This would convert the Board of Customs into fruitsellers, and would lead, no doubt, to a defalcation of revenue. There was also another clause in the bill, which, as it was an infringement on the rights of property, he wished to see altered. It was a clause which gave the mounted preventive service the power of passing through all turnpikes and over all private bridges free of toll. Now many of the turnpike trusts in the maritime counties were in a state of embarrassment, and these exemptions from toll, which in number were increasing every Session, would tend to increase their difficulties. It was for the general benefit of the revenue that the preventive service was employed, and he saw no reason why any part of the expense of it should be thrown exclusively on the maritime counties.

Bill postponed.

HOUSE OF COMMONS,

Thursday, August 9, 1838.

MINUTES.] Bills. Read a first and second time:—Dublin University Electors.—Read a third time:—Consolidated Fund; Exchequer Bills; Exchequer Bills (Public Works); Four-and-a-Half per Cent. Duties; Slave Trade Treaties; County Treasurers (Ireland); Coal Trade (London, &c.); Church Building Acts Amendment; and Tin Duties.

Petitions presented. By Sir R. INGLIS, from Oxford, against the Sale of Beer Act.—By Captain ALSAGER, from persons in Surrey, against Beer Houses.—By Viscount MORPETH, from Saddleworth, against the Sale of Beer Act.—By Mr. WALLACE, from Commercial Travellers, for a reform in the Management of the Post-office.—By Sir C. CODRINGTON, from Captain James Wilson, of the Navy, to be heard at the Bar of the House in favour of the claim of Mr. Rowland Milner to be restored to the rank of Lieutenant in the Navy.

MUNICIPAL CORPORATIONS (IRELAND).] A conference was held with the Lords, and Lord Morpeth and the other managers on their return, reported that the Lords, having taken into consideration the reasons given by the Commons for disagreeing to several amendments inserted by the Lords in the Irish Municipal Corporations Bill, did insist upon some of their amendments to which the Commons had disagreed; that they disagreed with some of the amendments which had been made by the Commons; that they agreed to some of the Commons amendments without amendment; and that they agreed to some of the Commons amendments with amendment.

Lord J. Russell moved, that the amendments with the Lords' reasons, should be read; which was done by the clerk at the Table.

Lord *J. Russell* said, that he thought that they could gather from what had been read the general purport of the amendments which had been made by the Lords. It appeared that they had so far agreed to the Commons amendments, as not to insist upon the provisions made for the charitable trust, further than that the present trustees should continue until October, 1840. To some other clauses the Lords had also agreed, and they had not insisted on other amendments. It appeared, however, that with respect to the principal clause, on which there was a difference of opinion between the two Houses, that on the clause respecting the franchise, the Lords wished to retain the bill in exactly the same form as it had been previously sent down; and, feeling that this question alone was of so much importance, seeing no hope of inducing the Lords to recede from the franchise they had proposed and to accept the present bill, not being himself disposed to go any further in the way of concession, having made what he considered great and important concessions, he thought that in the present state of the bill he should not carry on the controversy with the House of Lords any further, and that he should postpone the bill for consideration to another Session of Parliament. It seemed from the Lords' reasons for objecting to the amendment relative to the franchise, that they differed from this House because they thought that it was not desirable to establish a new variety of municipal franchise, but that they ought to adopt one already in existence. Now, if this were the opinion of the Lords, they might take the franchise which had already been adopted as the franchise in England, and which was the most wholesome and the best that had ever been adopted by Parliament. They were, however, precluded from considering the adoption of the English franchise, because it was founded upon a previous rating of three years; no other reason existed than that it was impossible to adopt the franchise at the present time; and he thought that they might advantageously consider in another Session of Parliament whether, avoiding any new mode—or, as the Lords said, any new variety—of franchise, which was therefore unpalatable to the other House, there might not be discovered another, founded on principles already adopted, and closely resembling that which had been found salutary and useful. He did not wish to give any definite opinion upon this subject now, but this did occur to him, upon reading the reasons which the Lords had stated for disagreeing to the present bill. Without referring to the other alterations made by the Lords with respect to this bill, agreeing, as he should do, if the franchise had been settled, that there were several amendments upon which they (the Commons) might have given way, and there were matters upon which it was not impossible for them to have agreed, but they could not do so on the matter of the franchise. Considering, then, that the Lords did require for Ireland a franchise of a far higher kind than was known in the corporations of England or of Scotland—seeing no reason why this higher franchise should be adopted, and thinking, as he could not help thinking, that this would be regarded in Ireland as a proof of distrust, and that the foundation of the refusal which had been made two years ago of any reformed corporations in Ireland still subsisted—and thinking that with this prevailing notion the bill would be unpalatable to the great mass of the people in the towns, who, instead of being trusted, would be marked with suspicion and distrust, he had no other course to take than to move that the amendments should be further considered that day three months. In doing so, however, he must say, that he should be sorry to make this motion if he considered all chance of procuring corporations as hopeless. He thought, however, that in the course of the discussions this year they had got rid of some of the great obstacles to a settlement. In the first place, they had removed the objections which had been entertained to elected corporations existing in Ireland; and secondly, the Lords and Commons had agreed in a great many of the provisions of the bill. He need not further debate the subject; but, in giving up the hope of successful legislation this year, he did so with the satisfaction of reflecting that differences between the two Houses were not so wide as in former Sessions they had been upon this subject. The noble Lord concluded by moving, that the Lords amendments should be further considered that day three months.

Mr. *Shaw* regretted much to hear the course which the noble Lord had taken, and were it not for the state of the House and the lateness of the Session, he would have opposed the unusual proposal and would have opposed proceeding in this summary way. He was sorry, that the noble Lord had not given time for due consideration, Scarcely had the time for the conference passed, when the noble Lord rejected the bill, without giving an opportunity to the parties interested to consider the subject. He objected to acting in the summary manner which the noble Lord proposed, and he must say, that in so doing the noble Lord incurred the whole of the responsibility. [" *Oh, oh!" and Laughter.*] Hon. Members laughed, but he did say, that all the concessions had come from his side of the House, and it was monstrous for the noble Lord to say, that he had made concessions. The noble Lord might say this to throw dust in the eyes of his friends; the noble Lord had undoubtedly changed his views, but it was on another subject, connected with Irish tithes; the noble Lord had made great concessions in that, which were satisfactory; and the course which the noble Lord had taken was conducive to the best interests of the country, but it was monstrous for the noble Lord to keep this subject in the background, and then to maintain, that he had made great sacrifices on this question. The sacrifices had not only been made by the great party in this country which had been long opposed to these views, but in Ireland every influence had been used to procure assent to these concessions. The noble Lord had sent up to the other House a bill with a *5l.* franchise; this was true: but surely the noble Lord had forgotten, that he proposed in his own bill to give a 10*l.* franchise, and that in 1836 a 10*l.* franchise had been agreed upon. Now all that they (the Opposition) contended for was, a 10*l.* franchise, and all the difference between them and the noble Lord was, as to making it up. The noble Lord admitted, that this difference was trifling; but then, if it was immaterial, why did not the noble Lord give way, especially after the concessions which had been made by the right hon. Baronet, the Member for Tamworth, concessions which had even surprised the noble Lord? As to the observation of the noble Lord, that the proposed franchise was unknown, all that they desired was the same as existed in Scotland, the same as was the Parliamentary franchise in Ireland, a 10*l. bona fide* franchise, and for that they sought only the best test. And here he would make an observation which he had not had an opportunity of making before, that in the city of Dublin a recent valuation for the police-tax had taken place, and he had no hesitation in saying, that the valuation for the rating under that act would be found to equal the real value, and, indeed, in some instances, the rated value would be found to be more than the real. On one point the Lords had agreed in substance to the alteration which had been made by the House. He knew, that no great value had been set by the Lords on the alteration as to trustees, and as great objections had been made, and motives had been attributed which he knew to be groundless, he was glad, that the Lords had consented to the Commons' amendments. For his own part, although he agreed in thinking, that the concessions should have been made, he held to the opinion which he had formerly entertained, that if they could do so without offending any national prejudices, it would be better, that the old corporations should be done away with altogether, and that the business should be transacted by commissioners. He had from the first said, that there was no strong feeling upon this subject in Ireland : it had been mixed up with other subjects, but the absence of complaints was the best proof, that there was no real anxiety. He again entered his protest, not so much against the proposal as against the summary manner of the noble Lord. The Gentlemen on that side of the House did not expect any such precipitate proposition, and it might at least have been preceded by the reading of the whole of the Lords' reasons. There was no real difference between the two parties, except as related to the franchise, and with respect to that all they (the Opposion) required was, that it should not be nominal but real, and he thought, that it was not unreasonable for them to expect, that such a concession should be made by the noble Lord.

The *Chancellor of the Exchequer* said, that the objections of the right hon. Gentleman were objections in form and objections in substance. When the right hon. Gentleman expressed surprise at the course which had been adopted, he would remind him, that the same course had been taken in the year 1836, with the approbation of Members on both sides of the House. In 1836 the Lords' amendments were read as they now had been, and their further consideration was postponed for six months; but when the right hon. Gentleman said, that the adoption of this course was a matter of surprise, he must say, that out of that House there was not any expectation, that the result would be different, and the right hon. Gentleman could not be serious when he said, that he expected any other to be taken. So much for the matter of form. Now as to the substance. He thought that Ministers were entirely justified in the course which they had taken. Their object had been the contentment of the people of Ireland, and it was much better to allow the House to consider the whole question, than under the colour of passing a bill which would content the people of Ireland, to sanction what would lead to directly opposite results. They would, indeed, be deceiving the House and the public, and acting, he would not say insultingly, but disrespectfully, towards the people of Ireland, if they, thinking that this bill would not produce contentment, were to permit it to pass. For that they would be answerable; and when the right hon. Gentleman said, that with them rested the responsibility, he must say that it would do so, if they accepted, under the colour of reform, a measure which would not produce it. Then, indeed, their motives would be suspected, and their good faith brought in question. The objection which had been made to the English franchise did not appear to be one of principle but only of time. The right hon. Gentleman had attributed to them a disposition to keep this question open, as a bone of contention between the two sides of the House; but the right hon. Gentleman was not entitled to take that ground. If Ministers had adhered to the *5l.* franchise this accusation might have been raised, though he did not think that even then it could have been fairly and justly applied; but when Ministers had made every endeavour to meet the question, and when, as the right hon. Gentleman admitted, the difference between them was very slight, he had no right to say, that they left this question as a bone of contention. If the money value were concurred in, yet even then he would have preferred their own proposal to that of the Lords, which was bad, because it would lead to perpetual contests, would cause much false swearing, the tampering with surveyors, and it would introduce the same objection as the Gentlemen opposite entertained to the Parliamentary franchise. The right hon. Gentleman said, that he wished only for the same franchise as the Scotch; but the Scotch franchise of 10*l.*, without the rating clauses, and the Irish franchise of the same amount, with those clauses, would be an entirely different thing; and as to the reference to the city of Dublin, even if the right hon, Gentleman proved that the rated value equalled the real, this would not show anything, for it was on the valuation under the Poor-law Bill, and not for the police tax that the franchise proposed by the Lords was founded. On these grounds, he believed, that if they postponed this bill they would be able to obtain a better adjustment of the question; and they had shown, that although Government was willing to make any concession which could be regarded as reasonable to obtain a settlement, yet that they would not consent to any concession which was inconsistent with the principles on which they had acted with regard to this bill.

Sir *R. H. Inglis* declared, that he also was much surprised at the course pursued by the noble Lord opposite; but, as the bill was to be again brought before the House next Session, he hoped, that the speeches which had now been made upon the subject would be remembered, and that the House would be troubled with less discussion of an irrelevant nature.

Mr. *O'Connell*, as the representative of the city of Dublin, felt it to be his duty to offer his thanks to the Government for the very unceremonious manner in which they had treated this matter; and, if it had been possible to adopt a still more unceremonious course, he hoped, that they would have done so; for the bill was an insult, and was intended as an insult, to the people of Ireland. The right hon. Gentleman opposite had talked of the concessions which had been made on that side of the House and he had said, that he was the instigator of them; but, in so doing, he had attributed to himself a merit which did not belong to him. He talked of his concession. Why, what concession was it to the people of Ireland? They were asking for their rights, and they demanded them. They treated with ineffable contempt every attempt to deal with them in any way other than that in which England and Scotland had been dealt with; and it was a robbery to keep their rights from them; and it was base in the extreme to adopt any measure which should have that effect. To do so was to deprive them of their rights, and he looked upon the individuals who so acted as the persons who really desired the repeal of the union. The people of Ireland demanded an equality of rights. That was what they wanted. Then it was said, that the noble Lord had made concessions on the Tithe Bill; but how had they been received? He was an advocate for the granting the million for compensation for tithe arrears, but he now bitterly regretted having taken that course, because, if they were to believe the reports which reached them, the bill would come down to them with some of the most important clauses so altered that, if the case was as it was represented, there was no reason why the bill should not be treated as unceremoniously as this measure had been treated; and, he hoped, if it should prove as he anticipated, that the Tithe Bill would share the same fate as the Municipal Corporations Bill. He knew the right hon. Gentleman was sorry, that this bill could not be agreed to, because it contained clauses sanctioning that which was one of the greatest evils which existed—the fictitious franchise. It did contain such clauses, and he was sorry, that he had lost the opportunity when the bill was under discussion to move their exclusion. When they were before the House he let the time slip for doing so, and the right hon. Gentleman took especial care to refuse to allow him to go back, although it was only three lines. He hoped these clauses would not be continued in the Government bill next Session, and if they were not, and the right hon. Gentleman should move their insertion, he would have an opportunity afforded him of proving to demonstration that they were of a highly improper nature, and that they were calculated to produce the most serious mischiefs in Ireland. Many of these persons had been admitted to be freemen of Dublin, and to exercise the fictitious franchise, although they had obtained their freedom by neither birth, servitude, nor marriage. He hoped, however, that when the new bill should be introduced the noble Lord would propose the English franchise, for he was sure that it must come to that. There would be no difficulty at all, for they would then have the assessment to the poor-rates, and what was now spoken of merely in anticipation would then be in existence. It would be easy to create an identity as to the three years' residence, because it would be easy to make the qualification consist only in a dwelling in a house rated under the bill, and therefore they could have the English franchise complete. If that franchise should not be sufficient, why, they would have no reason to complain, for the English submitted to it. They would then take the concessions of hon. Gentlemen as nothing, and their conciliations as vain and empty propositions. Then there never was a more perfect illusion than the idea which had been suggested that the people of Ireland were careless about this measure. They had enough to care for, and they would be in the greatest want of any feeling of respect for their own rights if they did not take an interest in this matter. What a mockery was that very corporation of Dublin to which the right hon. Gentleman himself belonged, It was really the greatest offence that could possibly be offered to common sense and justice that it should have been allowed to continue so long. It had been abandoned by all its former supporters, who would have been content to have seen it annihilated, and both its friends and its enemies had long since voted for its being dissolved. He did not wish to delay the House any longer, but he would say, that the Irish people demanded the English franchise, and that they would never be content until they obtained it.

Mr. *D'Israeli* was sorry that another bill was to be introduced upon this subject next Session, for he thought that sufficient time had already been expended upon it. The House had now been sitting nine months, and what had they done? The effect of all their labours amounted almost literally to nothing. The necessity for sitting so long was the great attention paid to Irish affairs, and measures in reference to that country were introduced which were not called for by the necessities of the country, but which were brought forward and supported merely for the purpose of keeping a party in power. But what was the result? They were now separating after a Session of nine months' duration, and they left Ireland in a state of smouldering insurection. He felt the difficulty of saying much on this subject; but after the false hopes which had been excited in the country, he would venture to make one observation on the state in which the country would be left. They were about to meet their constituents to give an account of themselves and their conduct; but what could they say when the only result of their nine months' sitting, the ordinary period of gestation, had produced nothing but this abortion—this strangled offspring of the noble Lord? For ten years they had been tampering with Ireland, and they had done nothing towards bringing those disorders which still existed to a termination. They had governed it by a miserable minority, and they now governed it by a treacherous majority. They had denounced a gentleman from the throne as a traitor, and they had since offered him the highest situation in their power; but he had triumphed over them, and had refused to accept it. He asked them if they would come forward again and again with this miserable state of things in existence? He would use the words which had been employed by the hon. and learned Member opposite, and which therefore he supposed would be considered parliamentary, and he would say that the course the Government had pursued was a most profligate one.

Sir *Hussey Vivian* said, that from observations which had fallen from hon. Members, it would be thought that the people of England did not feel any interest in this measure; but he felt it his duty to say, that at the time of the election, the people appeared to be anxious about nothing so much as that justice should be done to Ireland. He was glad that this bill, which did not secure that justice, and which did not put the people of Ireland on a footing with those of this country, had been rejected.

Motion agreed to, and Bill put off.

HOUSE OF LORDS,

Friday, August 10, 1838.

Minutes.] Bills. Received the Royal assent:—Stamp Dies; Juvenile Offenders; Slave Trade (Sicily); Slave Trade (Tuscany); Affirmations; Recovery of Tenements; Custody of Insane Persons (England); Constables on Public Works; Hackney Carriages (Metropolis); Bank of Ireland Repayment; Loan Societies (Ireland); Fisheries (Ireland); Schools (Scotland); Liverpool Clergy Endowments; and Church Rebuilding Amendment.—Read a first time:—Spirit Licences (Ireland) Suspension.—Read a second time:—Duchies of Cornwall and Lancaster.—Read a third time:—Militia Pay; Militia Ballot Suspension; Mails on Railways; Mediterranean Postage; and Joint Stock-Bank.

Petitions presented. By Lord Ellenborough, from an Individual, in favour of the Imprisonment for Debt Bill.—By the Bishop of Hereford, from Fermanagh, against Encouragement to Idolatry in India.—By Lord Redesdale, from Sidmouth, in favour of a further Grant to the Church of Upper Canada.

Edinburgh Magistracy.] The Earl of *Haddington* rose, pursuant to notice, to call the attention of the House to the case of certain persons recently appointed to the Commission of the Peace for the city of Edinburgh, and he could assure their Lordships, that he would not have taken up their time at that late period of the Session, if he had not considered this case to be a real grievance, and to present grounds of just complaint. An addition had been made to the number of the magistracy for the city of Edinburgh to the amount of ninety-one, and these, with the persons previously in the commission and official personages, made 187 justices for a population of 150,000 persons. He knew not why this immense array of justice should have been provided. There was little or nothing to do, all the regular business being fully discharged by the magistrates of the city and the sheriff of the county; and he had some right to complain of the selection made; that of the ninety-one lately appointed, eighty-seven were notoriously Whigs or Radicals, and four only Tories. Their Lordships were aware, that party spirit ran very high in Edinburgh, and it was assuredly the object of a wise Government not to inflame that party spirit; but no course could have been pursued so likely to excite and increase it, as to make a Commission of the Peace, which, on the face of it, appeared to favour a party that had returned as its particular representatives to Parliament, the right hon. the Speaker of the House of Commons, and the hon. and learned Attorney-general. He understood that the persons who had been thus placed in the commission, were notorious retainers and canvassers for those honorable persons; and further, that many individuals had been left out whom it would have been natural to select for filling the honorary office. Of the entire magistracy, 100 were what were called merchants, although the greater part of these were merely shopkeepers of a respectable class, and only fourteen of them were Conservatives. In a city containing a great number of bankers, the commission contained the names of only three, one of whom only was a Conservative; and there were twelve advocates, of whom only two were Conservatives. Of the 155 magistrates, exclusive of official persons, who, being most of them connected with the town council of Edinburgh, were generally of the same political opinions with the present Government, twenty-five were Conservatives, and 130 Whigs and Radicals. He did the noble and learned Lord the justice to believe, that what he was now stating was new to him; for he could not believe, if the noble and learned Lord had known that a political list of this sort had been returned to him, he would have given it the sanction of the great seal. The city of Edinburgh, as regarded party feeling, had been tested not merely by the Parliamentary, but by the municipal elections, and he should have expected, that a recommendation coming from the chief magistrate, as lord-lieutenant of the county and city, was one which would have been strictly inquired into. If the noble and learned Lord had not instituted an inquiry as to that list, he must say, that he had not discharged his duty; but at whatever door the blame might lie, this partiality was calculated to produce the greatest mischief. If these justices were to be of any use at all, it must be at a time of considerable riot and confusion; and, at such a time, it was highly desirable, that the inhabitants of the town should have full confidence in their magistrates; and with their feelings excited and inflamed by such a list, it was scarcely to be expected, that they would entertain that necessary degree of confidence in those magistrates; for there was no doubt, that a decided majority of the respectable inhabitants of that city entertained the same political opinions with the majority in that House. He should, therefore, move, for copies of the correspondence on the subject of these appointments between the Lord Provost of Edinburgh and the noble and learned Lord on the woolsack.

The *Lord Chancellor* said, that the noble Earl did him no more than justice in supposing, that he would reject any list which he knew to be framed at all upon the principle of exclusion. He had no knowledge himself of the facts of the case; no complaint had ever been made to him of the persons so appointed, nor had he ever received any application from others claiming to be inserted. A list had been submitted to him by the Lord Provost, in the month of October or November last, and he had written in reply to state, that the names in the Lord Provost's list would be inserted in the new commission. He had acted on the recommendation of the lord-lieutenant of the county of the town of Edinburgh, and he had received no complaint either before or since that time.

He had now stated the whole of the correspondence, and the noble Earl might take any further steps he thought proper; but he could not enter at all into the description given of these persons as being Whigs and Radicals, because he knew nothing at all about that.

Lord *Lyndhurst* said, though his noble and learned Friend had received no complaint, he had received very great complaints from the highest authorities in Edinburgh, and he could assure their Lordships, that a very strong feeling existed in that city on this subject. His noble and learned Friend was rather unfortunate in his appointment of magistrates. In England, when the lord-lieutenant happened to be a Conservative in politics, the commission was kept back a considerable time, and minute inquiries were made, and ultimately a list was presented, containing many names which a lord-lieutenant would never have presented, and which were introduced contrary to his opinion. But when they went to Scotland, to a county where the lord-lieutenant happened to be a Whig—what took place then? Two persons were suggested, both of whom notoriously had been guilty of fraud, and one of them was in a low station of life; but, in that case, so little inquiry was made, that though, with their own consent, they had been convicted of fraud, those persons were inserted in the commission. On a former discussion, the noble and learned Lord had laid down a doctrine to which he would, by no means, give his consent, and it was to the effect, that if there were a certain number of Conservatives in the commission, it was expedient to add the names of some Radicals, for the purpose of creating a balance between the parties, so that justice might be administered fairly and without passion; and that doctrine had been followed by the noble Baron, Lord Holland, who said, that if he found a certain number of persons members of the Church of England in the commission, he should feel it his duty to introduce a corresponding number of Dissenters for the same purpose of keeping the balance even. Now, what system could be more abominable than that? But let them mark the consistency of his noble and learned Friend. His noble and learned Friend had looked at the old commission for the city of Edinburgh, and he found there forty-four Whigs and twenty-one Conservatives. What, then, ought he to have done on his own principle? Why, he ought to have added twenty Conservatives. But what did he do? Why, he added eighty-seven Whigs and Radicals. His noble and learned Friend asked, innocently enough, how could he tell whether they were Whigs or Conservatives; how was it known what their politics were? They knew it by the poll-books—a pretty good test—they knew it by their being actively employed as partisans in the sharp contests which had taken place in that city. Whether they were Whigs or Radicals it might be now difficult to discover. Indeed, the only difference seemed to be this—that he who was a Whig in office became a Radical when he went out. He wanted to know, why his noble and learned Friend had not acted on his own principle of keeping the balance even, instead of throwing the whole weight so extravagantly on one side. They would not have complained of anything in moderation; but this was so extravagant—eighty-seven to three by way of a balance! This was really too bad. He had no doubt, it was not intentional on the part of his noble and learned Friend, who was not aware when he was guilty of partiality, or how far his judgment was influenced by his private feelings; for whether he was appointing trustees or justices, no doubt, he intended to do that which was just and proper; but, in the end, it generally turned out, that Radicals were appointed.

The *Lord Chancellor* said, that with respect to the appointment of trustees, in very few cases indeed had the decision of the Master been altered, and the cases in which that had taken place afforded no ground whatever for the observation of the noble and learned Lord. He should have thought, that at least the noble and learned Lord would have been satisfied on that matter, because he was acquainted with the practice of the Court of Chancery, and he must know that the charge was wholly groundless; but the charge was equally unfair and unjust as regarded the appointment of magistrates. In this present case he knew nothing of the persons in the list submitted to him; he had no means of knowing anything, and therefore he could exercise no discretion about it. If other persons had thought themselves entitled to admission, why had they not applied? He had received no such application; he had heard no complaint until to-night. By no possibility could a public officer, holding the situation he did, discharge its duties without instantly being subject to attacks of this sort: but it was unnecessary for him to complain of them, as they were manifestly unjust. He did not object to the noble Earl bringing the subject forward, because there might be matter of complaint of which he had no knowledge, being unacquainted with the names in the list, as also with the wants of the locality.

The Earl of *Haddington* said, that he had made no charge against the noble and learned Lord. He was only surprised, that it did not occur to him to make inquiry into the composition of a list coming from the Lord Provost of Edinburgh. There was another case to which he would just allude. From the county of Dumbarton a memorial had been presented to the noble and learned Lord, from which it appeared that there were three persons of property in the county who had been formerly magistrates, and who were entered as solicitors; they had perhaps properly been struck off; but three others were found on the same list who had no connection with the county, and one of whom was the general agent in Edinburgh for the lord-lieutenant of that county, a supporter of the present Government.

Motion agreed to.

CANADA.—DECLARATORY AND INDEMNITY BILL.] Lord *Brougham* moved the Order of the Day for going into Committee on the Canada Government Declaratory Bill.

Viscount *Melbourne* said, before my noble and learned friend leaves the Woolsack, it may be as respectful and convenient to your Lordships, that I should state the course which I intend to pursue in reference to this bill. Your Lordships have determined, unquestionably very contrary to my feelings, to give a second reading to this bill, and it is impossible for me to express my deep concern and my great anxiety for the great and important interests which are now at stake in it. With respect to the objection taken to the ordinances recently promulgated by Lord Durham, that is a point which rests upon a broad principle of law which I do not pretend nor mean to deny—a principle of law very evident, clear, and distinct to lawyers, though not, perhaps, so clearly apprehended by other persons. It is in favour of and an encouragement to a particular party in that colony, and that party is a party which has lately excited rebellion against this country, and which undoubtedly is bent upon the separation of the two countries. You may depend upon it, my Lords, that such will be the effect of the course which the noble and learned Lord is pursuing; that will be the effect of the course your Lordships have pursued—the practical effect: and the reason why I objected to your Lordships taking that course, and why I endeavoured to dissuade you from taking it was, that it was, impossible for me to conceal the apprehensions with which I look upon this course, and especially when it was taken at such a distance from the scene in which it is to operate, and when it is impossible for us to say in what state or condition of feeling those debates and this bill may find the people and the inhabitants of that colony. Unquestionably I am of opinion, that it would have been far better if your Lordships had not taken that course, that it would have been far more prudent if your Lordships had left that course to be pursued which should be decided upon by her Majesty's Ministers; but as your Lordships have decided otherwise, it is for me now, setting that aside, to state the course which I and my colleagues have considered it our duty to take in consequence of that decision. My Lords, I cannot but say, that looking at these ordinances, and being compelled to admit that one part of them is clearly without the bounds of the jurisdiction of the noble Earl, the Governor-general of Canada, I cannot but say, that I felt very much pressed by the argument that fell from my noble Friend opposite (the Earl of Ripon) on a former occasion, when he said, that he considered that one part of these ordinances was clearly and distinctly beyond the bounds of the authority that had undertaken to create them; and when he also said, that with respect to a colony of this nature, a chartered colony, the Crown had not the power of allowing one part and rejecting another, I felt strongly pressed by his argument to come to the conclusion, that her Majesty ought to be advised to disallow these ordinances. On the contrary, in disallowing an ordinance of so solemn a character, I could not avoid taking into consideration the effect which it would produce in enabling the persons it was directed against, to return to the seat of Government, if they thought proper; I cannot avoid saying, that the impression under which I addressed your Lordships last night was, that you were in effect striking at the root of all authority in the country. Grave objections were taken to that part of the ordinance which related to those persons not in custody, but who had fled from the country. Now, my Lords, I think it impossible to suppose but that everybody acquainted with the feeling of the present day, and with the temper and disposition of my noble Friend, the Governor-general, must feel certain that this was merely held out *in terrorem*, that it was intended to secure the colony against the return of those persons, which necessarily must have been felt to be dangerous. And I must say, that I should have been better contented if your Lordships had not interfered with that part of the ordinance, because from the particular omissions in it, as I argued last night, it is not possible to believe, that there must not have been some particular and sufficient reasons for those omissions. At the same time, feeling that I was pressed by the argument that had fallen from my noble Friend (the Earl of Ripon)—feeling strongly the cogency with which he urged that the Crown having disallowed one part of the ordinance, it being clearly unwarranted by law, it was very difficult to avoid exercising the power of the Crown and disallowing the whole ordinance. I, therefore, beg leave to say, that we have come to the decision of advising her Majesty to adopt that course, and to disallow the ordinance. I cannot but say, that it is with the deepest regret and alarm, that I have taken this course. I cannot but say, that it is not without very great apprehensions of the consequences that I have taken this course, and that it is not without feeling the greatest pain and regret, that I have come to the determination. It follows as a consequence that one part of the ordinance being illegal, that which was done in execution of that part of it is also illegal, and those who have acted in the execution of it are liable to proceedings in the civil and criminal courts. It is necessary, therefore, that some indemnity should be given to those persons; and seeing, as is perfectly well known, the guilt of the parties against whom the ordinance was directed, and seeing that those who may have detained those parties have acted in such a manner as would subject them to the penalty of the law, I certainly have felt, that the indemnity clause of the present bill, ought to be passed. With respect to the first clause of the bill, I think it goes too far. It deprives the government in Canada of a power which they may find it necessary to exercise; and it is, in my opinion, for that reason, objectionable; and, therefore, in the adoption of that clause, it is impossible for me to concur. A great deal has been said, in the course of these discussions, respecting a proviso in the bill which was passed in the beginning of the session upon the subject of Canada, and which prohibits the Governor of Canada in council from doing anything in contravention of any act of the Parliament of Great Britain, or of the Parliament of the United Kingdom, or certain acts passed by the legislature of Canada. Unquestionably, this proviso, considering the grounds upon which it certainly was introduced, it being stated, that it was intended to apply only to the Canada Act of 1791, and the other act relating to tenures, was very large, and I must say, I shall be very much surprised, if your Lordships permit it to stand in its present shape. It is impossible to deny, that which has been said, considering who the person was, that moved this particular clause, as to what was the intention of the act, and I hope your Lordships will consider what its effects would be, and what it was meant to be, and although, certainly, there is no ambiguity in the words, and they must be considered as co-extensive with what they express. I feel, at the same time, considering that it appears, that doubts are entertained on the subject, and that the proviso, as it stands, leaves the law evidently in a state of absurdity; if it disables the Governor in council, from altering or amending any act that was passed before the union with Scotland, or to deal with the common law in any way he pleases, if it disables him from dealing with the criminal law as he pleases, that certainly was not the intention of the act, and it cannot be the intention of your Lordships to tie up the Governor-general in Canada, and his council from taking measures which may be necessary for the safety of the country, even, although inconsistent with some of the acts mentioned in the proviso. Noble and learned Lords seem to me to push this matter to an absurdity in the arguments which they have held on the subject. As for instance, with respect to a police act, it was stated, that the government in Canada must adhere to all the forms of police acts in this country, and that the party must be taken, and examined before two magistrates, and not before one. If this proviso be adhered to, it would bind the Governor-general to observe all the regulations of any act of Parliament, even on the most minute subjects. I think, therefore, that your Lordships can have no objection to introduce into this bill an explanation of this proviso, stating, that it shall not interfere with any measure which may be absolutely necessary to be adopted in the circumstances which may occur in that country. When we come to that part of the bill, I shall move a clause to that effect.

Lord *Brougham* said, but for the concluding part of the noble Viscount's speech, I should have felt unmixed satisfaction at the announcement he has just made of the course which he intends to pursue, I think most judiciously, most wisely, and most virtuously, and most in accordance with the principles of law and justice, which a government ought to administer. I think the course he is taking is worthy of those who have always defended the great principles of civil liberty —worthy of the men who feel, that the principle of public conduct is a regard to the interests of the mass of the community; and I think it consistent with those great principles with which he should regard, with which he does now regard, and with which your Lordships regarded this most outrageous violation of every principle of law, and every feeling of justice. But I differ from the noble Viscount on one or two points, and I think, I should not be discharging my duty, or showing a becoming respect for your Lordships, after the struggle which we made for right and justice, and for conciliation last night, if I abstained from remarking, which I shall do very shortly, upon the difference that separates me from the noble Viscount. The noble Viscount says, " he greatly laments the decision to which we came last night. He says, that he deems it his duty to declare, that he labours under serious apprehensions and alarm, as to the consequences of that decision, and that he will fling upon you, and upon me the responsibility of what may happen in consequence of that decision; and he tells your Lordships, that, though true it is, that here, as lawyers and statesmen, you submitted the broad principle upon which last night, you rested, it is only lawyers and statesmen who apprehend, and appreciate the principle, and that the people at large will only see in it the victory of a party." Gracious God! does it require men to be lawyers, or statesmen, or learned men, or even ever to have read a book upon any of thote subjects, to know, and feel, that it is an outrage upon all justice to condemn to death fifteen men who have never been tried; for that, in one sentence, is the effect of this unheard of ordinance, and that is the principle, and the whole principle which your Lordships have laid down. I do not believe, that in Canada, from one end to the other of her wastes of snow, and her forests of pines, her boundless lakes, and her rapid rivers, that one man dwells, who will be doubtful of the truth of the proposition, that under ignorance of what he was doing, or under a misapprehension of it, under an oblivion of the restraints upon his jurisdiction, under the influence of haste, or precipitation, or error, or neglect of some sort, from oversight, or mistake, well-meaning, but ill-judging, wishing to do good, but in effect, doing wrong, thinking that he was following the law, but in fact, breaking the law, the Governor-general of Canada has condemned these fifteen men to be punished capitally without notice, without trial, without a hearing, and that as soon as her Majesty's Government heard of it, with the advice and consent, and urged by the opinion, declared by your Lordships last night, they have not suffered a day to elapse without advising the recall of that illegal, though it may be well-meaning, ordinance. I think, I cannot put the proposition more fairly as regards the fact, more fairly towards the inference of law, and, at the same time, permit me to add, more fairly, more candidly, more temperately towards the authors of the mistake than in the sentence which I have just now spoken. I charge the government in Canada with no wilful error —I impute no tyrannical object as the cause of this wrongful act whatever—I acquit them of all blame except that of having committed a gross and manifest error; and upon the ground of that gross and manifest error I consider that your Lordships have done wisely, and well, and justly, and according to your duty in coming to last night's decision. Upon the same ground I venture to foretell, that the people of Canada will not make this conduct of ours, or of the Government, which is the result of the division, the pretext for further outrage. If they do, I will take my share, as your Lordships will take your share, of the responsibility; but I must add, in justice to you and to myself, that I should hold them as guilty of outrage, and of being wrong doers, not from mistake, but from wilful crime, if they make this conduct of ours a pretext for further outrage. Because it is as hollow, as shallow, as arrant, as flimsy a pretence as a man could rack his brain to invent. Because an illegal act is done, because an outrage is committed on law and justice through mistake, and because those who compose the highest court of judicature in the country, as well as the upper chamber of Parliament, because the Crown at their advice and suggestion loses not twenty-four hours to undo what was wrongly done, to repair what was mischievous, to prevent further mischief, and to lead to greater caution and circumspection in future, will any man living say, that this is to furnish a pretext for the people of Canada to suppose that we have altered the opinions that made us pass the bill, that we have shown a disposition to encourage outrage, and to stimulate the French party against the English party? Can any mortal derive the slightest shadow of a pretext to justify such conduct from the course we have pursued here? My Lords, be not discouraged—persist in the course to which you bound yourselves last night,—let it be called that of a jobbing oligarchy or a truculent democracy. I care not for it; so that you only show a jealousy not of your own privileges, but of the public rights, and so that you show that your truculency leads you to prevent innocent blood being shed by an unlawful ordinance, and to secure a trial for men who have not been heard, tried, or summoned, but who have been convicted unheard, untried, and unsummoned. I heartily rejoice, therefore, that Government has come to this virtuous and wise and politic resolution. If the course they had taken has produced an increase of disaffection towards them, and a distrust of their motives, I think I may say now that we have, for the first time, shed daylight on this obscure question; and that the course we have taken will lead to a conciliation of the affections and the respect of many even among the disaffected. And doubt not but that if the time and the interval be wisely used, and the measure of last night be wisely and consistently followed up, it will better lead to gain the hearts of the people of Canada than if they had made themselves parties, infatuated parties, to those ordinances which they have so wisely condemned. I must confess, that I have no objection to strike out the declaratory part of the act, and to leave the clause of indemnity. My noble and learned Friend (Lord Lyndhurst) suggested that course; but I must say, that I cannot consent to arm the government of Canada with powers which, under the bill as it stood, that Government did not possess. Has the conduct of the Government in Canada been such as to tempt your Lordships to enlarge its power? I certainly do not think so. I do not go along with the noble Viscount in saying that it was ever intended by the passing of the act to give any power to the Government of Canada, however strongly they might be armed in other respects, to pass bills of attainder, and bills of pains and penalties, against individuals. The noble Viscount said, that we ought to have done so. At first, the noble Viscount said, that we had done so; but now he says, that as we have not done so we ought, and he calls upon us to do so, that is, to give the power of passing bills of attainder, without hearing the party. The Government of Canada is not composed of men who are so little likely to underrate their powers, or to stand within the strict line of them, or to be governed by law and common sense, as to make it wholesome to enlarge the powers which they already possess. I do not ask to restrain those powers which they at present possess; I am willing to leave the law as it is, and as it was left when we passed the bill; for although I opposed the bill, I am not the man now to rise and attempt to repeal it; let it be as it is, and let there be an indemnity for those who have counteracted any part of it, or committed any offence against it, as far as regards Nelson and his associates, but I am not prepared to extend that indemnity to all cases that may have happened. The Government of Canada, may have caused to be put to death, unheard, untried and unnotified, those fifteen persons. They have included in this ordinance, Perrault, who has never absconded. If those persons have been imprisoned, and treated as felons, I am not prepared to say that they should be deprived of their right of action, that they should be deprived of their solatium of damages which a person has a right to have who has been illegally imprisoned. I am prepared, however, to grant the indemnity in the case of those nine persons who were willing to go to Bermuda; they have no right to complain if we take away this remedy, but I am not prepared to go further. It is, therefore, my intention, on bringing up the report, to move the addition of two or three words, to confine the indemnity to that extent. I am in the hands of the House. This is your Lordships' bill as well as mine, and whatever course to you shall seem fit to be pursued, with that I shall be entirely contented, completely satisfied, but I consider that I have only done my duty in stating the impression which the speech of the noble Viscount has made on my mind.

The Duke of *Wellington*: My Lords, I cannot help expressing the satisfaction with which I have heard the declaration of the noble Viscount; and I must add my sincere desire that the noble Viscount will be disappointed in his apprehensions that the course taken by this House may lead to inconveniences in the Government of Canada, and to evils such as he has described. I feel a sincere conviction that the people of Canada, as well as the people of this country, will do justice to your Lordships upon this subject, and that they will not be led to believe that it was the intention of your Lordships, or even that your Lordships could possibly imagine, that the course pursued last night, is calculated to lead to the evils which the noble Viscount apprehends. Having said thus much upon the course taken by the Government, I must say that I concur entirely in the proposition made by the noble Viscount, that in Committee we should proceed to amend the bill, so as to give indemnity as proposed in the second clause. With respect to the amendment proposed by the noble Viscount, and the alterations which he proposes to introduce, I must avoid giving any positive opinion on such a subject until I have seen what the amendments are which he intends to propose. But some circumstances have occurred to my mind, even when first hearing the noble Viscount's proposition, and afterwards on hearing the objections stated by the noble and learned Lord, which induce me to think that it would be highly inexpedient to adopt that proposition. We are now at the close of the Session of Parliament, which we commenced by adopting this bill, after full consideration in both Houses of Parliament. I contend that it was perfectly understood, in the other House at least, if not in this, that the proviso in the act did provide for those cases which I contended last night it provided for. Under these circumstances I should say, that it would be highly inexpedient in the Committee on another bill so far to alter an act of Parliament which was passed at the commencement of the Session with universal consent, universal in this House with the exception of the noble and learned Lord (Lord Brougham), and by a great majority in the other House, I think it would be highly inexpedient now to alter that measure. I must first beg leave to submit to the noble Viscount that the alteration proposed is by no means necessary. It is not necessary for carrying into execution the purpose of Government to punish rebellion and treason within those provinces. I believe, that the late Governor-general acted under the provisions of this very act, and he must have had the power to punish rebellion and treason, as the present Governor-general must have under the act of Parliament as it existed at present without the alteration proposed. Under these circumstances I should wish that this proposition should not be brought under the consideration of the House, having a sincere desire that this matter should be discussed and should terminate without any further division of opinion upon it, and really feeling that if it is now brought on no real service will be done to the State. I hope, therefore, that Government will adopt that suggestion.

Lord *Wharncliffe* concurred entirely in the opinion that in the decision which their Lordships had come to last night, there was nothing to excite the apprehensions for the consequences in which the noble Viscount had indulged. He thought also, that after the manner in which the Government of Canada had exercised the powers confided to it, no blame could be imputed to their Lordships for the course which they had pursued.

The Earl of *Ripon* said it was perfectly true that there might have been difficulty in obtaining a sufficient and competent council under almost any circumstances similar to those in which the Governor-general stood, but he thought it must be imputed to the peculiar position of the Government at home that such a council as now assisted Lord Durham should have been formed. Nothing less than the extraordinary condition in which the Cabinet at present was, could have led to the appointment of the council in Canada of men who were unacquainted with the condition of that country, and at the same time deficient in that knowledge of the law so necessary to the proper discharge of the difficult and delicate duty which had been intrusted to Lord Durham as Governor-general.

The Marquess of *Lansdowne* said, they could not overlook the fact that the possible effect of what had taken place might be, to convince a party in Canada, however unjustifiable the conclusion, that the Governor-general and the government there had no longer the authority they had believed them to possess, but that they were stripped of that authority by the act of the Legislature. He believed, however, that the maintenance of the authority of the Canadian government was essential to the preservation of peace and tranquillity in the colony, and to the continuance of the connexion between the two countries, which it was the first object of their Lordships to consider. Were they not, then, bound to consider what would be the effect of this measure on the minds of persons in Canada, who were still disposed to give encouragement to the cause of rebellion in that country? In that view alone he should feel himself called on to support such an amendment as was suggested by his noble Friend; the effect of which would be to remove the doubts that had been raised as to the power of the Governor-general. But if it were true that the noble Lords opposite had acquiesced in the power which had been exercised by Sir J. Colborne, a power which went far beyond that which it was said they had assumed would have been exercised by the present Governor-general—if it were admitted that the power so exercised by Sir J. Colborne was conformable to the law, then the object of his noble Friend would be in a great measure gained. It was contended that the words of the act that had been so often quoted deprived the Governor-general of the power of attainder. That had not been considered the case heretofore; because if such were the proper construction noble Lords had been neglectful of their duty hitherto, inasmuch as they had allowed an act of Sir J. Colborne to lie upon their table uncondemned, unnoticed, for the last six weeks, that act being an act of attainder, and professedly founded on the authority of the act of this Session. Was it not clear that it was some new doubt, some new suggestion, that had occurred to them and inclined them to raise the question as to whether those powers had been legally exercised? He claimed for Lord Durham the power which had been exercised by Sir John Colborne; and he would say, that power to that extent was necessary to the peace of Canada, and, being so, he trusted that the noble Earl would continue undauntedly and fearlessly to exercise it when necessary to put down the efforts of those who were guilty of resistance to the lawful Government. Sir John Colborne acted on this principle, and, as he would maintain, most properly; but he desired to be told whether he was considered to have acted in conformity with the law or not. He was confident that he had; and if he heard a declaration to that effect from noble Lords, and Lord Durham was allowed the same power, he should be satisfied; and that much in behalf not of the Government, but of the public and of the interests of the people of Canada, he had a right to expect.

Lord *Brougham* said, there could be no doubt, that whatever power Sir John Colborne possessed Lord Durham could legally exercise. As regarded the question asked by the noble Marquess, he did not know whether it was addressed to himself, to the noble Duke, the noble Baron, or the noble and learned Lord opposite; but if the noble Marquess intended to ask him to state his opinion as to whether Sir John Colborne had exceeded his powers under the act or not, he begged to say, that the noble Marquess put a question to him such as he did not feel himself at liberty to answer.

The Marquess of *Lansdowne*: It was on record, that Sir John Colborne had used these powers, and he believed the majority of their Lordships would say, that he had done no more than was right. But if there existed doubts as to the legality of these acts, however proper they were in any other respect—if by the exercise of those powers he had rendered himself liable to action or impeachment, that, surely, was not a state in which the House ought to leave the question, either as regarded Sir J. Colborne or any one that succeeded him.

Lord *Brougham*: God forbid he should say, that Sir John Colborne was liable to impeachment or action. Whatever opinion he gave, neither Sir John Colborne nor the Earl of Durham would be any the better for it, for still they must act on their own responsibility.

The Marquess of *Clanricarde* could see nothing calling for animadversion in the conduct of the Earl of Durham, except the fact of his having sent the offending party to the island of Bermuda, an act which was admitted on all hands to have been inconsiderate. But if Lord Durham had done anything illegal in the other acts of attainder, he conceived, that Sir J. Colborne was equally liable to that imputation.

The Earl of *Wicklow* observed, that it had been proved to demonstration in the course of last night's discussion, that these acts of attainder by Lord Durham had taken place in a manner totally at variance with the institutions of the country which he was sent to govern. He had to accuse the noble Viscount opposite of not doing that upon the previous night which, upon further consideration, the wisdom of his Cabinet had judged to be proper. The responsibility in this matter, therefore, rested entirely with that noble Viscount. He was of opinion, that the discussion of the previous evening would raise the character of their Lordships with the country, and prove that they were most careful guardians of the interests of the empire at large.

The *Lord Chancellor* said, the construction put on the act by his noble and learned Friend was never put on it till now. And suppose that were a right construction, what would be the consequence? It would be this, that the noble Earl would not have it in his power to alter any act of Great Britain, or of the United Kingdom. Nay, an act of attainder was contrary to law. However necessary it might be considered to the peace of Canada, he could not issue an act of attainder, neither could he suspend the Habeas Corpus Act. He could do neither of these things, because he could not depart from the criminal law as administered in any county in England. All that was asked of the noble Lords was, that they would grant those powers which they thought the Governor-general ought to possess. If the limited construction now put on the act by his noble and learned Friend had been put upon it during its progress through their Lordships' House, would they not have objected to its passing in that shape. Those noble Lords who objected to the powers conferred by the act, of course would not favour a declaratory act to define what those powers were; but those who thought the powers which it was believed the act gave when it was under consideration, could not possibly object to any amendments that were necessary to remove all doubts. Whatever construction was put now upon the words introduced by Sir William Follett, there could be no doubt of this—that a very different construction was put upon them when the bill passed the Commons from that contended for by his noble and learned friend and others.

Lord *Mansfield* said, that he had retained, as singular historical documents, the Canada Government Bill, by which such extensive powers were conferred upon the Earl of Durham, in the shape in which it had originally passed the House of Commons, and in the shape in which it had afterwards received the Royal assent. These documents presented a most remarkable contrast to each other. He would not say, that the one exhibited the beauty of the god, and the other, the deformity of the satyr, but he was positive, that so striking a contrast had never before been witnessed. It was said, that the ordinances which had been issued by Sir John Colborne and the Earl of Durham were to the same effect. Now, he was of quite an opposite opinion. Sir John Colborne's ordinances contained nothing more than a mere warning; whereas Lord Durham's ordinances contained a proclamation ordering transportation, without previous notice or time given. To have withdrawn that illegal ordinance upon the previous evening would have been better both for the character of the Earl of Durham and of the head of her Majesty's Government.

Their Lordships went into Committee, and went through the bill.

The House resumed. On the bringing up the Report,

Viscount *Melbourne* rose to propose an amendment to this effect:—

"Whereas it was provided by an act passed during this present Session of Parliament, that it should not be lawful for the Governor-general and Council of Lower Canada, by any law or ordinance, to repeal, suspend, or alter any provision of any act of the Parliament of Great Britain, or of the Parliament of the United Kingdom, or of any act of the Legislature of Lower Canada as now constituted, repealing or altering any such act of Parliament; and whereas doubts have arisen as to the meaning of the said proviso; be it, therefore, enacted that the said proviso shall not extend to prevent the Governor and Special Council of Lower Canada from passing such laws as may be necessary for the safety of the province, or from providing for the punishment of, or detaining in custody, persons who have been engaged in conspiracies against her Majesty's crown and dignity."

Lord *Ellenborough* said, that these words gave a power to the full extent, as great as was conferred by the original bill in the House of Commons. In every stage, however, through which the bill passed, it received some modification; but by the amendment of the noble Viscount, it was proposed that the Governor should not be prohibited from taking such measures as should be necessary for the security of the province. That was in plain English exactly what was rendered by the Latin—*caveat ne quid respublica detrimenti capiat*, and it never was at any time the intention of Parliament that he should take that power. The original bill gave him power to do all acts that might be necessary to the good government of Canada, and the words now proposed by the noble Viscount, went beyond the original proposition of her Majesty's Government. He therefore trusted, that their Lordships would not agree to the amendment of the noble Viscount.

Lord *Brougham* observed, that what his noble Friend opposite had said, in respect to this amendment was perfectly and literally true. It would enable the Governor of Lower Canada to do whatever he saw fit to do, and destroy a man behind his back by an act of attainder. All the Government wanted was to get something. [Lord *Lyndhurst*: — Why?] Oh, my noble and learned Friend knows why as well as I do. He knows what Governments are, and what governors are, and all they want is, while we are giving them a sort of rap, to get a plaster. They want to say to the Governor-general, "Although we have been obliged to disallow your ordinances, yet we have got you a great power."

The Earl of *Mansfield* suggested a short act on the subject distinct from the present bill. The House could never agree to grant the Governor-general powers not given even by the original bill.

Lord *Lyndhurst*: The regular course would be to introduce another bill.

Lord *Brougham* had never read of any such mode of proceeding in a bill for indemnity by way of letting the object of it down gently. When the illustrious ancestor of the noble Earl opposite (the Earl of Mansfield) drew up a bill of indemnity for Lord Chatham, Lord Chatham came down to the House and refused to accept the bill of indemnity, and said he would face his accusers. Lord Mansfield, however, told him, that if he did not accept the indemnity, he would immediately have a hundred actions brought against him, so Lord Chatham thought better of it and accepted the indemnity. The bill, however, did not contain anything but the provision for indemnity, and yet the wrath of Lord Chatham was quite as formidable as that of any other man either here or in Canada.

Viscount *Melbourne* would not press his amendment.

The Earl of *Harrowby* was understood to say, that it appeared to him that the Government not having formed last night the determination which it had since taken of withdrawing these ordinances, it was impossible for the House, after the subject had been brought under their consideration, to avoid expressing an opinion upon it. The noble Viscount would have entirely blunted the dart which he supposed to have been launched at his Cabinet and Government, if he had taken the course which he had since adopted. Whatever, therefore, might be the results of the discussion which had ensued, they could not be laid at the door of those who had voted upon this question, but must be chargeable upon those who had forced them to vote. It appeared that if the bill passed as it was framed at present, the Governor-general of Canada would be left in a situation which would cramp his exercise of the powers with which he was invested to put down rebellion. He trusted, therefore, that some opportunity would be given before the bill passed, of pointing out what were the powers which he really possessed. Whether that should be done by a declaratory act or not, he could not pretend to say. He merely threw out the suggestion, whether there were not two powers which ought to be placed in the hands of the government of Canada, and whether the bill might not declare that the act of this Session was not intended to prevent the passing of such bills of attainder as were warranted by the ancient practice of the Parliament of England, or the suspension of the Habeas Corpus Act. This would, at the same time, avoid ambiguity, and the arbitrariness of the measure proposed by the noble Viscount.

Lord *Ellenborough* thought that after the discussion which had taken place in that House, and the difference of opinion upon the construction of the act expressed by his noble and learned Friend opposite, by the noble and learned Lord on the woolsack, and the noble and learned Lord below him, their Lordships could not expect that any man fit to be a governor, would consent to govern Canada, unless the doubts which existed were cleared up. He could not do it if he had any respect for his own character, or any regard for the welfare of the persons whom he was to govern. He was, therefore, strongly in favour of an Act which should declare what the powers of the Governor-general and council really were. However, with the means which existed of applying to the Parliament of Great Britain, he did not think that any colonial Legislature ought to have the power of passing acts of attainder. The power of suspending the Habeas Corpus Act was of a different character, and one which the Government of Lower Canada certainly ought to possess at present. He understood, that it had been supposed, that the Government had not the power to suspend the Habeas Corpus Act, and therefore, they were obliged to have recourse to a stronger measure—the proclamation of martial law. What, therefore, he thought ought to satisfy the Government, was an explanation of the powers really vested in the Governor-general and Council of Lower Canada. He must, however, observe, that it was never intended that the Special Council should be illusory—a sort of sham. That, he repeated, was never intended by Parliament. It was the fault of her Majesty's Government, who ought to have selected a sufficient number of persons to form a proper and sufficient special council. But when they had united the Governor and the Council, and enabled him to absorb the Council, he must say with such a Governor-general, and such a Special Council, he would not give the Government of Lower Canada the power of suspending the Habeas Corpus Act without a provision was made that a real Special Council should be appointed.

The Duke of *Wellington* said, that it was absolutely impossible to enter into this question without taking into consideration the act of the present Session, and considering it in all its parts, and reviewing the acts of the Governor-general of Canada, and making provision for them all. He therefore acquiesced in the withdrawal of the motion by the noble Viscount, which in his opinion was wise and proper. In the course of the discussion last night various opinions were given by high legal authorities on the construction of certain clauses of the Canada Government Bill. One opinion had been given by the noble and learned Lord opposite, and his noble and learned Friend behind him, and another by the noble and learned Lord on the woolsack. He would ask their Lordships, therefore, under these circumstances, and considering that there was nothing positive on the subject, excepting, that it was necessary to pass an Act of indemnity for those acts which were known to be illegal, to enter into a revision of the whole power and authority intrusted to the Governor-general of Canada, and to consider the acts of the Governor-general under the several provisions of the Act of this Session, and then to make a new law. Before he sat down, he earnestly recommended to the noble and learned Lord to print his bill after it had been amended in the report, and that the third reading should take place after the bill should have been printed.

The Marquess of *Lansdowne* rose merely to say, that he thought the course proposed by the noble Duke was the most convenient that could be adopted ; but it was very inconvenient that doubts had been thrown out at all. There had now been three days' discussion on this subject, during which doubts had been raised by high legal authorities in this House as to limitation of particular words introduced into the Act of the present Session by an hon. and learned Member of the other

House of Parliament; and after those opinions had been expressed, was it not possible that doubts might arise in the mind of the Governor-general of Lower Canada, as to whether he and the Special Council had power to do that which had been done in Upper Canada, namely, the suspension by the legislature of that province of the *habeas corpus*? It was desirable that the noble Governor-general of Lower Canada should know the situation in which Sir John Colborne was placed, in reference to the course he had taken; and if he now acquiesced in the suggestion of the noble Duke opposite, of allowing this bill to pass in its present shape, it was because, although these general doubts had arisen, the attention of their Lordships had been particularly called to the proclamation issued, and the acts of attainder passed by Sir John Colborne, and yet no one noble and learned Lord had got up and suggested the expediency of an Act of Indemnity for Sir John Colborne. He therefore assumed that in those acts of Sir John Colborne there was nothing illegal, and therefore no noble Lord of any high authority had called upon Parliament to administer the remedy of a bill of indemnity. If Sir John Colborne's acts were contrary to law, their Lordships were doing an act of great injustice to that gallant officer by not including him in the bill of indemnity. He trusted, however, that this bill would go forth to Canada accompanied by the fact, that the attention of the House had been called to the acts of Sir John Colborne, and with that comment he thought it possible the measure would not be productive of that inconvenience which he had first anticipated.

Lord *Brougham* repeated his objections to the noble Marquess who had just sat down, throwing hints to feel (as was said in the courts) the pulse of the House. The House had not had the acts of Sir John Colborne before it. Many noble Lords—his noble and learned Friend opposite (Lord Lyndhurst) for instance—had not seen a line of them, and what could mortal man, whether lawyer or layman, at present say more than that if Sir John Colborne's acts were lawful, he did not want a declaration of opinion upon them—if they were illegal, any declaration of opinion would not avail him a straw. At present the House was dealing with a bill of indemnity for acts done, of the illegality of which there existed no doubt. He heartily concurred with the noble Duke that nothing ought to be done by way of tack to the present bill. If the clause were added, this country and Canada would have a right to complain that new and most important powers, which ought to have been discussed on the second reading, were given in a late stage of the bill, and at a period of the Session when they could not be deliberately considered as they ought to be by either House of Parliament. The better course would be, therefore, to pass the bill of indemnity as it now stood, and if, on further consideration, the noble Viscount and his advisers thought it necessary to proceed further, let him to-morrow or Monday propose a separate measure for that purpose.

Clause withdrawn, bill to be read a third time on Monday next.

Court of Session (Scotland.)] Lord Brougham moved the third reading of the Court of Session (Scotland) Bill.

The Earl of *Haddington* moved the omission of a proviso at the end of the 34th clause, empowering either House of Parliament to rescind by resolutions any acts of sederunt passed by the Court of Session.

Lord Brougham and Lord Lyndhurst suggested the propriety of omitting the entire clause.

Their Lordships divided on the omission of the clause—Content 20; Not Content 13: Majority 7.

Bill read a third time and passed.

Prisons (Scotland.)] The Prisons (Scotland) Bill was read a third time.

On the question that the bill do pass,

The Earl of *Mansfield* felt it to be his duty to oppose the third reading of this bill, which had not been sufficiently considered. In fact, there never had been a bill of so much importance which had been so little discussed in the House; there had been a practice of late which he thought very objectionable to postpone the discussion of a bill at the proper stage to another opportunity. In this way, this bill had been delivered to their Lordships in the morning, had been read a second time in the evening, had afterwards been committed and about sixty clauses were passed in about as many seconds and now it was proposed to read the bill a third time, 'without any discussion, but he, Lord Mansfield) felt it necessary to make some observations on the bill which he would confine within the narrowest limits; though he feared, that he could not equal the rapidity of the Committee. Although the bill had not been discussed in the House, it was correctly stated by the noble and learned Lord (Lord Brougham) that few bills had undergone so much consideration in the Select Committee; but previously a noble Duke (the Duke of Buccleugh) who was always most attentive to any measure which was connected with the advantage of the people of Scotland, had assembled several Peers at his house, who had been employed for several days in trying to alter the bill and make it fit to pass this Session; but being unable to agree upon these improvements, they had proposed to the House to defer reading the bill a second time, Their Lordships, however, had determined to refer the bill to a Select Committee, which had had the advantage of the assistance of the noble and learned Lord and of two other noble Lords who had had great experience in Select Committees and the result was that the bill with the corrections was submitted to the House—but in the opinion of the Select Committee in an imperfect state. The bill therefore in his (Lord Mansfield's) opinion, should not be allowed to pass. To state shortly the object of the bill; it was to relieve the Royal Boroughs from the obligation under which they were now placed, of building and maintaining sufficient prisons and bearing certain expenses for the maintenance of prisoners, to erect sufficient prisons in every county, and place them under the management of a local County Board, acting under a general Board, which would have the sole management of three great General Prisons,—a part of which would be Penitentiaries in which prisoners were confined with the hope that an improvement in their morals would be effected, before their liberation.

In the constitution of this Board great alteration, and in his (Lord Mansfield's) opinion great improvement had been made but he could not see the necessity for the House passing a bill (which perhaps would be rejected elsewhere) merely to show that the House of Lords approved the principle of centralization, as recommended by a noble Lord opposite, for his own part he would not object to any plan of centralization or one mixed with local Boards, he had no prejudice upon this point, he could agree to anything which appeared to be most advantageous, but at this moment was not prepared to say, what was best. But in relieving the Royal Burghs from the obligation of maintaining the prisons, there was a clause providing that a prison should be built in each county and, that in this debtors were to be confined, now this would occur; in some places there would be a small prison, and the gaoler would not receive high wages, yet he was to find security against the escape of debtors who might be confined for a considerable sum, it could not be expected that the Royal Boroughs should remain bound as before, now that they were discharged from all interference with the prisons; the clause had just now been struck out, but no other provision had been set in its place, there would be no adequate security.

The expense of the three general prisons and of maintaining prisoners, was to be defrayed by a general fund to which the boroughs and counties were to contribute, and an assessment was to be laid on by the general board according to an estimate founded upon population and crime.

Now, against this basis, remonstrances had been made by several counties, complaining that a much larger sum would be assessed on them than if the estimate had been founded upon population only, or upon crime; the county of Perth and the county of Ayr, were nearly equal in population, but by taking an estimate on population and crime, there would be an assessment on the county of Perth, greater by 1,000*l*. Upon what basis the estimate should be founded there were different opinions; but the present returns were notoriously incorrect, inasmuch as some counties had returned the number of convictions, and others had given the number of committals as establishing the amount of crime.

Again, the sum is to be assessed on the counties and the burghs, in equal proportions; but this question arises, should this be the uniform mode of assessment, or should not the particular circumstances of each burgh be taken into consideration, the amount of the burgh revenues which is stated in the preamble as a ground for relieving them, as well as the uncertainty of the contributions of counties.

Should a borough like Dundee for instance, which has lately built a gaol, at an expense of 22,000*l*., to which the county did not contribute, be assessed in the same proportion as a burgh in another county, in which a gaol has been erected but the cost defrayed by the county and the burgh in certain proportions? in equity it appears, that there should be a difference —but as to the amount of the common good and property of these boroughs as to the manner in which they have fulfilled their obligations, the House was not sufficiently informed; and, it was his intention to move for returns which would afford the information, but which would require sometime to prepare.

In conclusion, he found it to be his duty to press their Lordships not to consent to the third reading; as to the rejection of the bill in another place, that should have no effect upon their decision. No bill ought to leave this House, but in so perfect a state that their Lordships would consent to pass it, if the sole right of making laws were vested in them. This bill was by the admission of all, imperfect. He moved, that this bill be read this day three months.

Their Lordships divided. Contents 11; Not Contents 15:—Majority 4.

Bill rejected.

Imprisonment for Debt.] The *Lord Chancellor* called the attention of the House to the Imprisonment for Debt Bill; since the last discussion he had had communication with the Judges as to the time when it could come into operation, and the earliest day on which the necessary rules could be made was the 2nd of November, when the judges met.

Lord *Brougham* said, that he had received a number of the most heart-melting letters from parties who, expecting to be discharged on the 1st of October, now found that they were to be detained till the 1st of December; and he suggested that the act which had been passed in this Session enabling the judges to sit in banco during the recess should be made available for the purpose of forming the necessary rules under this act.

The *Lord Chancellor* knew that a few days ago there was only one judge in London, and he could not hope to find them in town soon.

Lord *Brougham* said, that whilst upon this bill he would call the noble and learned Lord's attention to a very hard restriction which was imposed upon newspapers, the proprietors of which were bound to insert every advertisement at 3*s*. each; and he had had a representation from a most respectable provincial paper stating that for 3*s*. they might be obliged to insert an advertisement of so many lines as to take up one-fourth of the paper. This was from a country paper, published only once a week, and such a proposal was enormous. Why was a newspaper proprietor to be taxed more than any one else for a private purpose?

Lord *Lyndhurst* had a petition to present upon this subject, which he regretted that he had not with him. It was from the proprietor of a country newspaper, and it stated that the sum proposed to be paid would not amount to the money paid to the workmen for setting and printing the advertisement. He (Lord Lyndhurst) could not think for what purpose the clause had been introduced.

The Earl of *Falmouth* said, that he had also received several letters stating objections to the clause, and he could not conceive why the clause had been allowed to pass both Houses of Parliament. The 3*s*. would not be a compensation for the mere labour.

Lord *Lyndhurst* suggested that the clause should be struck out. What right had they to interfere with private property?

Lord *Brougham* said, this was an amendment made by the Commons, and not having had the discussion which, if it had been in the original bill, would have taken place in its different stages, it was only saying, let A, B, C pay out of their own private pockets for the benefit of X, Y, Z, or any other individuals.

Viscount *Melbourne* advised their Lordships to consider well whether by making this alteration they would not run the risk of keeping the persons in prison till the next Session of Parliament.

The *Lord Chancellor* said, that this clause, with others, had been left out of the bill originally, because they were considered to be money clauses; and if the same provision, as he believed it did, existed in the Insolvent Act, why should it not be re-enacted?

Lord *Lyndhurst*: Why should they pursue a wrong? If it were in the Insolvent Act, why should they perpetuate what was bad?

Lord *Brougham* added, that the proposed clause was of much more general operation than the old one, and it imposed the necessity of inserting a much larger amount of advertisements.

Further consideration of the amendment postponed.

PARLIAMENTARY BURGHS (SCOTLAND).] The order of the day for the second reading of the Parliamentary Burghs (Scotland) Bill having been read,

Lord *Lyndhurst* said, that he was surprised that the bill should be brought forward. He had been told, that it would not be pressed.

Lord *Brougham* said, that this was an entirely new Municipal Bill for Scotland, consisting of seventy clauses, with two or three schedules, one of which contained the names of thirteen towns. He had not heard before of the existence of the bill. The noble Earl had not said one word to him about the alteration of the bill of 1833, which had been wholly in his (Lord Brougham's) charge. The noble Earl had never wished him to pay any attention to the former bill; and as he had not time to pay due attention to it now, he hoped that the House would agree to the motion that he would make, that the bill should be read a second time that day three months. During those three months he would direct his attention to the subject, and he thought it would have been but common decorum to have consulted him upon the bill before it was passed. He supposed that he would next hear of an amendment to be proposed in his Slave Trade Felony Act, without having had the opportunity of looking at the proposed amendment even for one hour. He would say nothing of common courtesy, because that had long passed and gone; but parliamentary decorum required that so important a bill as the present should not be read a second time, without a previous consultation, on the 10th August, on the very eve of the prorogation; and for these reasons he would save the noble Earl the trouble of going through the particulars of the bill, by moving that it should be read a second time that day three months.

The Earl of *Minto* replied, that the noble and learned Lord had rather inverted the order of proceeding by moving the rejection of the bill before the second reading itself had been moved. He wished, however, to state that the bill had no new object in view, it was only intended to work out the principle of the former acts, and to enable the burghs to raise funds which were essentially necessary to carry out the objects of the Legislature in conferring the municipal franchise. Some of the clauses in the bill were precisely the same as those in the old bill, and the others were intended only to effect the object which he had stated.

Lord *Brougham* said, that he wished to consider the bill, to know whether the proposed alterations really were amendments to his own act; for, judging from some recent proposals with respect to Scotch bills coming from the same quarter, he was not satisfied to take it for granted that the new bill would amend the old; and unless his noble and learned Friend opposite (Lord Lyndhurst) particularly wished for the bill, he (Lord Brougham) would certainly persist in his motion.

Lord *Lyndhurst* said, that so far from wishing for this bill, he was anxious to compare it with the other, to see whether the clauses in the new bill were in reality superior to those in the old; and he thought that it was rather too late in the Session, on the 10th of August, to read such a bill a second time.

The Earl of *Minto* felt that there was considerable force in the objection founded on the lateness of the period at which he wished to proceed with this bill, and under the circumstances he would consent to postpone it till the next Session.

Bill postponed.

HOUSE OF COMMONS,

Firday, August 10, 1838.

MINUTES.] Bills. Read a third time:—Private Bill Deposits; and Spirit Licences.

Petitions presented. By Mr. DOTTIN, against the Sale of Beer Act.—By Dr. LUSHINGTON, from a place in Kent, against the Encouragement of Idolatry in India.

TRADE WITH FRENCH AFRICA.] Dr. *Lushington* said, it was not his intention to trouble the House at any length on the motion which he now rose to bring forward, and which he regarded as of very considerable importance to a large class of merchants in this country. His object was to obtain, if possible, the aid of the noble Lord, the Secretary of State for Foreign Affairs, in improving the state of the negotiations now going on with the government of France relative to the terms on which our commercial intercourse with the possessions of that power in western Africa was conducted. It would probably be known to some hon. Members that there was a port of some consequence on the north-west coast of Africa called Portendic. Two British merchant ships had been seized by a French vessel of war for trading with that port. In the month of February, 1834, the government of France thought fit to impose a blockade on this part of the coast, under pretence that they were at war with a native tribe, and several vessels engaged in trading with the coast were compelled by the blockading forces to quit their station. The whole commerce of this country, the object of which was, to provide articles of much importance and value to our manufacturers, was in consequence forcibly suspended. It was a point of no small magnitude to ascertain what were the rights of British subjects as to traffic in this part of the globe. Gum and other articles were the staple part of the trade, and were of essential use in some branches of manufacture; yet the trade on which we were dependant for a supply of them was at present in a most precarious and unsatisfactory condition. Before this trade could be carried on so as to be of advantage to this country, and supply the wants of its manufacturers, it was absolutely necessary that the footing on which it stood should be distinctly settled. It appeared, that the French government now claimed an undoubted right to the whole of that extensive territory, which stretched from the mouth of the Senegal northwards, from which the greatest quantity of gum was drawn. They claimed a right to make regulations for those engaged in trade, and to establish blockades whenever it might suit their convenience. It so happened, that the whole of this district of country, formerly belonged to Great Britain, being secured to it by the treaty of Versailles in 1763. It was afterwards transferred to France by the treaty of 1783, but with an express declaration, that there should be reserved to the merchants of this country, a perfect right to trade in gum. In 1792 Great Britain again acquired Senegal, and the coast where these disturbances of which he complained had arisen, but by the treaty of 1814, France was reinstated in the possession of all her colonies and fisheries on the African coast. A question had however arisen, whether France possessed a valid territorial right over those districts which she possessed prior to 1792. It was not his intention to enter at length into this subject, of the difficulty of which and its importance to British interests he was fully sensible; but, whatever might be the right of the French government to the place at which the seizure was made, it could not be maintained for a moment that they were justified in taking forcible possession without the slightest previous notice of two British ships, bearing the flag of Britain, and in carrying them into a French port, thus depriving the merchants concerned of the benefits which would result from the voyage and exposing the owners of the ships to the loss of their property. One of the pretensions set up by the French Government was so preposterous on the face of it, that he was quite satisfied they would not persist in it: that was, that though the subjects of Britain might have a right to a share in the trade, it ought to be restricted by regulations formed by themselves, which would in fact put an end to all freedom of intercourse with the inhabitants of the coast. There were strong reasons for believing, that the step taken by the French government in declaring a blockade was not a *bonâ fide* exercise of a belligerent right, but had, in point of fact, been resorted to merely to benefit their own commerce at the expense of ours. He was in possession of the regulations of the French society for carrying on the gum trade, and he found that the price of gum was fixed with express reference to the enforcement of a blockade of the coast, and this without any previous notice of the intentions of the French Government. The nature of the gum trade was peculiar; that important article was only to be procured from three ports in the vicinity of Portendic, all within 100 miles of it; and if the French government were permitted without interference to continue their present measures, the inevitable consequence would be, as had been already in a great measure experienced, the entire stoppage of a valuable branch of British commerce, and of the supply of an article of great importance. He trusted, that the noble Viscount at the head of the Foreign Department would avert this evil by timely and energetic remonstrances, and that he would also obtain the satisfaction of the just demands of the merchants and owners of the vessels seized upon for the losses they had sustained. The hon. and learned Member concluded by moving for copies or extracts of all correspondence between the British Government and the government of the King of the French concerning seizures made by French authority of British vessels and cargoes on the coast of Africa in 1834 and 1835, and also relating to the blockade imposed by the French government on the coast of Africa at Portendic.

Viscount *Palmerston* said, that the subject to which his hon. and learned Friend had drawn the attention of the House was undoubtedly one of considerable importance—in the first place, as affecting the interests of a certain number of individuals who had very severely suffered in consequence of the transactions to which the motion related—and next, as bearing upon some questions of international right materially connected with the commercial interests of this country. At the same time, however, that he admitted, that the subject was one which his hon. and learned Friend was perfectly justified in bringing under the consideration of the House, he hoped, on the other hand, that his hon. Friend would feel it would not be consistent with his duty as a Minister of the Crown to consent to the production of the correspondence he had moved for, consisting of unfinished communications and negotiations between this Government and that of France. If the negotiations had terminated in a manner unsatisfactory to the Government of this country, then undoubtedly his hon. and learned Friend would have a good and sufficient ground for calling on Government to produce the correspondence, with the view of founding on it such a motion as he might think fit to submit to Parliament; but it would be a departure from the general practice, and attended with obvious inconvenience to those interests at stake if the whole proceedings of a negotiation yet pending were to be produced. For the same reason it would not be proper for him to state the precise condition in which that negotiation now stood, nor would he enter into any discussion of the several points adverted to by his hon. and learned Friend. He did not think this would be the proper time for him to state to the House the view Government took of the various questions arising out of the treaties concluded with France respecting the commerce of the African coast, as for instance whether the trade at Portendic ought to be carried on under the provisions of the treaty of 1783, or whether that treaty should be considered as no longer in force, having been terminated by the war of 1793, and not renewed in 1814. These were very material questions, but for the reason he had stated, he would not now discuss them. He could only express his hope, that the French government would not fail to give this question their earliest and most serious consideration, and he was quite sure, there was nothing either in the amount of the sums claimed as compensation for losses or in the character of the local interests affected which should induce the government of France to deny justice to the subjects of this country. From the complicated nature of the questions to be discussed, this negotiation had occupied a considerable time, and would probably occupy more; but he could not but express his belief and expectation, that it would end in a manner satisfactory to both countries.

Mr. Alderman *Thompson* was much disappointed, that the noble Lord had refused to produce the papers moved for. There were individuals whose property had been destroyed to the extent of nearly 100,000*l.*, so long ago as the year 1835, and whose wrongs were still unredressed. He should not desire the production of the papers if that step would tend to embarrass the negotiations, but he deeply regretted, that the noble Lord had not expressed a stronger opinion as to the justice of the claims made by the sufferers for compensation. British ships had been seized under pretence of a blockade of which no notice had been given. One of the merchants to whom they belonged, hearing of the sailing of a French man-of-war to the African coast, communicated the fact to the noble Lord, and urged the necessity of having an explanation from the French government relative to its destination. The French government being applied to, declared, that there was no intention of establishing any blockade, but, notwithstanding, the blockade was enforced, and British ships seized. Yet it was well known, that while this blockade was established, the French merchants were carrying on an extensive trade on the coast. The French government, he had no doubt, were actuated in what they had done by a desire to get the whole of the gum trade into their own hands, and he was very much afraid from what he had heard, that there was no disposition on their part to meet this question in the spirit of fairness or candour. He trusted, that if it were not settled before the next

Session, his hon. and learned Friend would again bring it before the House. Common justice demanded, that the merchants who had been exposed to unmerited losses should be compensated, and he thought the noble Lord might have been more explicit in declaring his opinion on this point as well as on the general question of our right to trade on the coast.

Dr. *Lushington*, in reply, said, that he was desirous, that the French government might learn from this public notice of the subject, that where justice ought to be done, the delay of doing that justice amounted, in many cases to a positive injustice. He knew of no pretence upon which the seizures of 1834 could be justified, and he thought the ships and cargoes ought to be delivered up, without delay. With regard to the question of the blockade, he should refrain from expressing his opinion until he saw what was the statement of the French government, the rights they asserted, and the ground on which they sought to rest those rights. At present, however, he should not press his motion, but in the next Session of Parliament, unless the question was satisfactorily settled in the mean time, he should feel it his duty to press more strongly on the House the history of the transactions, and the necessity of affording redress to the parties aggrieved.

Motion withdrawn.

FOREIGN FRUITS.] Captain *Wood* called the attention of the House to the state of the import duties on foreign grapes cherries, pears, &c., brought for consumption into this country and dwelt upon the injustice which would be done the English market-gardeners and growers of fruit for sale, if the reduction to a five per cent. *ad valorem* duty were to take place as contemplated in the Customs Duties Bill. He asked for a fair protection for the industrious and highly-burdened class who embarked their capital in gardening, which he conceived would be affected by imposing a duty of 30 or 40 per cent., on all foreign table-fruits. This would be doing no more than placing this portion of the community on a footing in point of protection with the manufacturing and agricultural interests. He moved, that the House resolve itself into a Committee of the whole House, in order to take into consideration the Customs' Acts.

Mr. *P. Thomson* said, that in point of form, the hon. Gentleman could not proceed in the way he proposed doing, inasmuch as the Customs Duties Bill, which had been passed during the present Session, had not yet received the Royal Assent. The existing duties, therefore, with which the hon. Gentleman could deal, were those of which he himself approved. But even if there were no objection in point of form, he should resist the motion; and for this reason, that the Legislature had already this Session determined to reduce the duties on these articles. The object of the Legislature was to allow these kinds of fruit to be imported at the same rate of duty as other fruits and vegetables, viz., five per cent. He believed there was no real ground of alarm, that the new scale of duties would at all injure the hon. Gentleman's constituents—the market-gardeners in and about London; at all events he was convinced, that their fears were greatly exaggerated. If, however, it should ultimately appear that their interests were injuriously affected by the new rate of duty, he should have no objection, in the next Session of Parliament, to interfere on their behalf.

Mr. Alderman *Thompson* agreed with the right hon. Gentleman, that the House ought not to entertain this bill; but if it did entertain it, still the hon. Gentleman would not obtain his object, which was to give his constituents a monopoly of the London market, unless he went further and introduced a measure to prevent fruit being brought from distant parts of the country to London by the railways.

Mr. *Wallace* said, that he thought an address ought to be presented to her Majesty, to call the House together in the month of November, to take the subject of the corn-laws into consideration; for he believed, that the corn harvest would be of a nature that would require very considerable attention on the part of the Legislature. And when the subject of corn was taken into consideration, they might perhaps look into the question of apples and pears at the same time. He thought the Government would soon have to consider, rather whether the people were likely to have anything to cover their pies with, than apples to put in them.

Mr. *Villiers* agreed with hon. Members, that the corn-laws had answered the purposes for which they were passed, and he thought that the hon. Member had well chosen the moment to make that observation. What was that purpose? To raise the price of food, in order to raise the rent of land, with the view to a profitable monopoly to the owners of land, in utter disregard and neglect of the wants and interests of the rest of the community; and this was the moment to call their attention to that object, when wheat had sold in some places, as he was informed, for 80*s.* a-quarter, and when most men expected, with the prospects of a bad harvest, and the known scarcity on the continent, that it would reach 100*s.* before the end of the year. The corn-laws were, indeed, then answering their purpose, and working well as it was called. And this was the time when a county Member came forward to ask them to raise the duties on other articles of necessary consumption, to afford further protection to the produce of land. He hoped the public would ponder well upon this attempt, and consider the prospects which were offered to them by this House. The hon. Member complained, that his constituents were unjustly treated, because they had not the same protection as other interests; and he said, that all he demanded, without reference to the principle of free trade, was, that while there was to be protection, that it should be extended equally to all, and that one interest should not receive more protection than another. Why, did the hon. Member know, that it was of that very inequality of the protection given to landowners which he supported, as compared with every other interest, that the public had so much reason to complain, and that while no interest received a protection of more than 30 per cent., and many not more than 10 per cent., that the landowners were enjoying a protection of 80, 90, or 100 per cent.? Let him, then, tell his constituents, who have urged him to moot this matter, why the House give no credit to his advocacy of the principle of equality of protection, when it is known that he is a supporter of the corn-laws. Let his constituents tell him to vote for an alteration of those laws, and, if he succeed, then they will have little reason to complain of the reduction of duty on foreign fruit, and will at least be in a situation to demand equal justice for themselves; but as a supporter of a monopoly of the very worst kind, he came with a poor face to demand favour against the public for his constituents. He was astonished that the hon. Member should, at this particular moment, have thought it right to propose anything so prejudicial to the community, oppressed and suffering as they were from the corn-laws. He hoped, however, it would have the effect of increasing the interest which that subject was at this moment necessarily exciting in the public mind. He was glad to think, that the forms of the House prevented the hon. Member persevering in his schemes, which must be so injurious to the public at large.

Mr. *M. Philips* thought it would have been just as reasonable to have called for the imposition of a higher duty on foreign corn, as on the articles mentioned in the hon. Gentleman's motion.

Captain *Wood* briefly replied, and said, that all he required was, to put the market-gardeners on the same footing as the manufacturers, by affording them a protection of 30 per cent. duty on the importation of foreign fruit.

Motion negatived.

HOUSE OF LORDS,

Saturday, August 11, 1838.

MINUTES.] Bills. Read a third time:—Consolidated Fund; Pensions; Registration of Voters; and Transfer of Funds (War-office).

Petitions presented. By the Bishop of LONDON, from Brailsford (Derby), against the Encouragement of Idolatry in India. [The Commons' Amendments to the Benefices Plurality Bill were taken into consideration. Some of them were agreed to, and others of them disallowed, and a Committee was appointed to draw up their Lordships' reasons for their dissent.]

HOUSE OF LORDS,

Monday, August 13, 1838.

MINUTES.] Bills. Read a third time:—County Treasurers (Ireland); Duchies of Cornwall and Lancaster; Slave Treaties; Corporate Property (Ireland); Coal Trade (No. 2); Exchequer Bills; Exchequer Bills (Public Works); Four-and-a-Half per Centum Duties; Personal Diligence (Scotland); Ecclesiastical Appointments Suspension; Valuation of Lands (Ireland); Copyright; and Registration of Electors.

Petitions presented. By Lord BROUGHAM, from the Clergy and Magistrates of Deal, for the Repeal of the Beer Act; from various bodies of Methodists, against the Encouragement of Hindoo Idolatry; and from Colonel Leicester Stanhope, and a Committee of Gentlemen, for a measure to compel the Dean of Westminster to allow the Statue of Lord Byron to be put up in Westminster Abbey.

CANADA—DECLARATORY AND INDEMNITY BILL.] Lord *Brougham* said, that in consequence of what passed on Friday, it became his duty to move the third reading of the Canada Government Act Declaratory and Indemnity Bill. He ought to remind their Lordships that he introduced this bill, not so much as one of indemnity, but as a declaratory Act. He thought it absolutely necessary to pass this bill in its latter character; and as to the part which related to indemnity, he should, perhaps, have left those who sanctioned and defended the wrong (he spoke, of course, in a legal sense) to move an indemnity for the proceeding. His object was, no doubt, to indemnify, provided he could obtain a declaratory enactment, but, unquestionably, there were reasons why he should not have been the person to volunteer in such an undertaking, when he might have left it in the hands of the official defenders of the measure which he condemned. But as it had happened, that by accident he became the author of the measure for indemnifying these parties, he had no objection to move the third reading of this bill. No doubt what the noble Duke (the Duke of Wellington) had said as to the hardship of officers, even those high in rank in her Majesty's navy, and also of subaltern officers, being placed in a position either of disobeying an order clothed in the form of law, or doing what was absolutely illegal, was very true. He, therefore, thought there was great reason for giving protection to those who were so circumstanced. Protection in this case ought to be much more readily given than in that of a civil wrong, because if the motives were pure, and the party had offended through zeal or rashness, that would be a ground for pardon if a conviction had taken place, and, of course, it would be one for giving indemnity against a criminal prosecution. But where the question was one of civil remedy, and there was no doubt the wrong was done, it was, in his opinion, not perfectly justifiable to take away the party's means of procuring his own indemnity where he not only had meant no ill but done no ill. Such a party was certainly entitled to his compensation in the shape of damages. Notwithstanding these reasons, as he had become accidentally mixed up with the business, he did not hesitate to move the third reading of the bill, sensible as he was that he was making a motion on the part of her Majesty's Government.

Lord *Denman* felt very strong objections to this measure. He had attended to what had taken place on this subject, and had given to it his best consideration. The question arose out of a certain ordinance issued by Lord Durham, and he was of opinion, that that ordinance was perfectly indefensible in point of law. Whatever powers the Legislature meant to invest Lord Durham with, it was quite clear to him, that they never intended that Lord Durham should carry those powers to the enormous extent to which they had been carried by him. A clause had been introduced into the bill by Sir W. Follett, which, it appeared to him, was wholly incompatible with the exercise of such despotic powers. To declare persons who were absent guilty of high treason, and subject them to the penalty of high treason if they returned to Canada, appeared to him to be a most rash and imprudent proceeding. He entirely acquitted Lord Durham of any improper motive. His object, no doubt, was to prevent the return of those persons to Canada, and his Lordship, he was convinced, believed that return they would not. But surely every one must see, that it would be attended with the very worst effects if laws were passed on the probability of their not being disobeyed. His objection to the ordinance was not founded on a technical point of law, but it arose from his feeling that it was a gross violation of the first principles of the constitution. As to the right of ordering transportation to Bermuda, he found that it was universally given up. But, for his own part, he could not come to a decision on that point; he could not decide whether Lord Durham possessed that power or not, until he had made a thorough examination of all the Acts of Parliament which related to transportation from the colonies. He conceived it to be very rash to come at once to a decision on that point; he thought it wrong for Parliament immediately to declare the illegality of this proceeding, because if a question arising out of any such deportation came before one of her Majesty's courts of justice, it must be decided by a reference to the different Acts of Parliament which were in existence at the time when the matter complained of occurred; and he thought it rather unlikely that Lord Durham, and those who advised him, would have assumed that power unless they felt that they possessed it in some sort of way. He had no doubt that those parties thought so; and he had no means of denying the proposition, until he had read all the Acts of Parliament connected with the subject. To that part of the bill, therefore, he felt very great objections—since such an enactment would fetter the judges of her Majesty's courts, when matters connected with those proceedings in Canada came before them. As to the indemnity which the bill provided, he was entirely opposed to it. The passing of indemnity bills he looked upon to be one of the most unjustifiable proceedings that Parliament ever adopted, even in the worst and most corrupt times. He remembered, some years ago, when the Habeas Corpus Act was grossly violated, the parties aggrieved were told that they might appeal to the law of the land for redress. But a bill of indemnity was immediately passed, by which those parties were debarred of that legal redress. He could conceive, that public officers might be justified by their good intentions in taking certain and extraordinary steps, or even that they might be justified in the course which they had taken by its fortunate and successful result. But he did not know, and could not feel, that Parliament had a right to say to a party injured by such proceedings, "You shall not have redress against those people who have done you wrong. We think it proper to indemnify them." In his opinion such a measure should not be resorted to without the clearest, the most urgent necessity being demonstrated. If Parliament were of opinion, that individuals had done wrong with a good and upright intention, why, let them be indemnified, if cast in actions, out of the public purse; but let them not leave the parties injured without remedy. Feeling strongly on this subject, he felt it necessary to make these observations. In 1818, he found, that a bill was brought into the House of Commons for the purpose of indemnifying parties who had acted in violation of the Habeas Corpus Act. It was strenuously and powerfully opposed, and the leader of that opposition was Mr. Lambton. Now, he thought, that if Lord Durham were present he would object to this bill, and would enter on his justification. That noble Lord was not aware of what had passed on this subject, nor were they aware of what defence he would be able to offer. Yet they were prepared to say to him by Act of Parliament, "You have done that which is not justified by law." Now, he (Lord Denman) did not know, that such was the fact. At all events, he conceived, that those who had infringed the law ought to answer for the infraction of it; and the parties injured ought not to be deprived of their remedy. His noble and learned Friend had drawn a just distinction between the propriety of indemnifying parties in a civil and parties in a criminal suit. He, however, could not see the propriety of granting indemnity in either case. In the latter, that of a criminal prosecution, the Crown might put a stop to the proceedings by a *noli prosequi*, or if the party were convicted the Crown might grant a free pardon. But in a case of civil action, he would ask, what good reason could exist for debarring an individual from his right of redress? A man might be brought to the greatest misery and distress; and was that man to be told when he sought for reparation, that, because the individual through whose acts he had suffered had done nothing but for the good of the public service, he was therefore to be debarred from all remedy? If such a course was permitted in one case, it might be done in another whenever the conduct of a magistrate was called in question. Then, although the individual might have been ruined by imprisonment or fine, a bill of indemnity might be called for on the ground, that the magistrate had acted for the good of the public service. On these grounds he thought the proposition highly objectionable and unconstitutional.

Lord *Brougham* said, he felt the force of what had fallen from his noble and learned Friend, coming as it did from one of the first legal authorities in the country. At the same time, his noble and learned Friend would forgive him if he most respectfully submitted to him and to the House a few observations, which would, he thought, blunt the edge of his noble and learned Friend's remarks on this course of proceeding. He would not say, that he was greatly rejoiced, or that he was surprised, for it gave him no surprise at all; but it would have been matter to him of never-ceasing regret to the end of his life, and of unceasing and indescribable astonishment, if his noble and learned Friend had not expressed the opinion which he had expressed on the material part of this question—namely, the outrage on law, on justice, on humanity, and on common sense, in condemning persons unheard, untried, and even unwarned, to death, if they returned to their native country. The innocent were included in this proscription as well as the guilty. Here was Mr. Perrault, who had left the country three weeks before the revolt happened; he could not possibly have been implicated in that proceeding, and yet he was marked out as one of those who, if he returned, should be punished with death. *Inauditum indefensi tanquam innocentes perière* was the language of the historian in describing the worst part of the worst times, and the very worst of the most tyrannic acts of those monsters who were a disgrace to that dark and despotic age; and such language would equally apply to the proceeding which had called for this bill. Suppose it had been enacted, that the Governor in council might pass bills of attainder against whom he pleased, still, what he had done would not have been justified under such a power, because a bill of attainder was never passed until the parties had been heard. The Chief Justice of the Queen's Bench or of the Common Pleas, had a right to try offenders brought before them. That was a legal act, they were authorised to proceed, they were obliged to hear evidence. But if they condemned a man without hearing him—if they said, "You shall not open your mouth, and you shall suffer death if you attempt to leave the dock," would not such conduct be execrated as a monstrous outrage on the feelings of mankind? Yet such was the course that had been adopted in Canada. This bill had nothing to do with the outrage and injustice sanctioned by the ordinance. What the bill touched was the conduct of those who issued the order; and, above all, as the noble Duke opposite had stated the other night, the proceedings of those who had acted under that order. His noble and learned Friend's first objection was, that he knew not whether the Governor-general of Canada might not possess the power of sending individuals to Bermuda. Possibly the Governor-general might have that power, but that power could only extend to the transportation of convicts, of persons who had been found guilty on proper evidence. The Governor-general had not the power of sending away into banishment those nine persons who had not been tried, and who, therefore, were not convicts. He was somewhat staggered by what had fallen from his noble and learned Friend respecting the indemnity, and by so doing declaring the acts and ordinances illegal in the absence of the parties; but he did not care about that declaration, so long as at the same time, they granted and gave a full indemnity from all possible penalties both civil and criminal. His noble and learned Friend had said, that with respect to criminal proceedings, there was no necessity for indemnity, because the Crown might enter a *noli prosequi*, or in the event of conviction, grant a pardon. But his noble and learned Friend ought to recollect that the Council might be impeached for their acts, and, by the Bill of Rights, the pardon of the Crown could not be pleaded in bar of an impeachment. He agreed entirely with his noble Friend in one part of his observations, where he stated his objections, on principle, to bills of indemnity. He was of opinion, certainly, that this was a dangerous precedent, but it was not, it should be observed, the first example of the kind. On a former occasion, in 1818, a similar measure was resorted to, and had, as his noble and learned Friend observed, been met by a powerful opposition. But, long before that period, a similar course was taken, when bills of indemnity were passed in favour of Lord Mansfield and the Earl of Chatham.

Bill read a third time and passed.

TIN DUTIES.]—Viscount *Melbourne* moved the second reading of the Tin Duties Bill, which would be of equal advantage to the Crown and to the trade and commerce of the country.

The Duke of *Wellington* objected to the bill, because, as one affecting the property of the Crown, it ought to have been brought in earlier in the Session, when the House could investigate the returns on the subject, to see that the calculations upon which it was framed were correct. He should like particularly to see that the arrangement entered into with the Crown was a fair one.

The Earl of *Wicklow* concurred that the House should have ample means of inquiring into all measures brought before it. In the present instance, however, he did not think that any objection could rest on this ground. This bill related almost exclusively to the remission of a tax, and was, therefore, within the privileges of the House of Commons, where it had been unanimously agreed to.

Lord *Brougham* said, that this bill, so far from remitting taxation, imposed 19,000*l.* upon the consolidated fund for the immediate advantage of a particular interest. He thought also that there would be a great risk of difficulty and injustice in passing this measure, on account of the manner in which it would affect the rights of a Duke of Cornwall whenever he should be *in esse*. He had not as yet seen any sufficient grounds for their Lordships concurring in this bill.

The Marquess of *Lansdowne* said, that if there was any reason to apprehend that the interests of the Crown, or of the Duke of Cornwall when *in esse*, were injuriously dealt with in this bill, their lordships would do right to pause before they passed it. But he believed, that there was not the slightest danger of this kind, the Crown being amply indemnified upon an average of the net receipts of the last ten years. With respect to the imposition of 19,000*l*. a-year upon the consolidated fund, he thought it very well applied as a substitute for two taxes very odious in character, and very detrimental in their effects—the one a local tax regarding Cornwall, the other a general tax affecting the whole community, and tending naturally to keep up the price of an article of very common use. He urged their lordships, therefore, not to refuse a remission of taxation which the House of Commons had almost unanimously acquiesced in, and which was looked forward to with confidence by all the commercial interests affected by it.

Bill read a second time.

BUSINESS OF THE HOUSE.] The Marquess of *Salisbury* said, that as a motion had been made in the other House of Parliament for a return of the number of bills rejected by their Lordships, the only object of which would be to cast a slur upon their Lordships, it became their duty to show, that they had not been unduly negligent or precipitate in the examination of those measures which had been submitted to them for consideration. Their Lordships, it was true, had very few opportunities of properly considering the bills which were sent up to them from the Commons. It was perfectly notorious, that most of the Commons' bills required their Lordships' serious attention, if it were only for the purpose of carrying into effect the intentions of the framers. The public unfortunately suffered the greatest inconvenience in consequence of the postponement till next Session of measures of great importance. That was not the fault of their Lordships. It was the only course left open to them to take. The returns would show the times at which the different bills were sent up. He found, that during the present year there had been 103 bills sent up. Fifty-eight of these had been sent up within the last six weeks, or rather up to the 8th of August, for several had been since brought up. During the whole of the preceding part of the Session there had been only forty-five sent up. The blame did not rest with their Lordships, nor so much, indeed, with the other House. When he recollected the number of days upon which there was no House formed, it occurred to him, that, perhaps, the Government might have an object in keeping bills back till a late period of the Session, in order to give themselves the opportunity of making a charge against their Lordships for either rejecting or postponing them. The noble Marquess concluded by moving for a return of the number of bills brought up from the House of Commons during the present Session, distinguishing the months and the number brought up in each.

Viscount *Melbourne* did not believe, that the motion which had been made in the other House was made with the view or intention of casting any slur or imputation upon their Lordships. The mere rejection of a number of bills was nothing in itself; the question was, whether they were wisely rejected or not. He entirely denied, upon the part of the Government, that there was any intention to take advantage of their Lordships, by bringing in bills at a late period of the Session. The delay was altogether unavoidable, and arose from a variety of causes—from the nature of the business, from the nature of the constitution, and of popular assemblies, and chiefly from the great increase of business which had taken place within the last few years. Then came the great party battles of the Session, which were generally fought within the last weeks. These necessarily absorbed and arrested all attention, and business became suspended until it was decided who the Government was to be.

The Earl of *Wicklow* observed, that the return moved for in the other House was not for the bills which had been brought up, but for those which had been rejected. Coupling that with various other little circumstances, it was easy to collect what the *animus* was which influenced the mover of that return. So far, however, from such a return implying any censure upon their Lordships, in his opinion, there was nothing which was likely to confer upon them greater credit. He thought it was likely to reflect the greatest credit upon their Lordships for their watchfulness and attention to public business, and he was convinced, that Members of the House of Commons would not so readily agree to many of the bills, if they were not sure that they would receive attention and consideration from their Lordships. During his experience, the practice had been very much the same, and he did not blame the present Government for it. Being in a minority in their Lordships' House, it was, perhaps, natural, that they should wish to obtain the sanction of the other House for their bills, before they sent them up to their Lordships.

Motion agreed to.

Imprisonment for Debt.] The *Lord Chancellor* moved the further consideration of the amendments of the Commons to this Bill.

Lord *Brougham* considered, it would be a very great hardship, if debtors, confined on mesne process, were to suffer a continuation of their imprisonment until the judges had drawn up the rules and orders, the day of liberation, as fixed by the bill as it now stood, being the 1st of December. Now, those rules and orders applied to writs of execution only, and he thought it would be highly desirable, looking to the immense number of persons in confinement who had expected to be liberated on the 1st of October, that they should make an amendment on the Commons' amendment, fixing the latter as the day the Act should come into operation; or, if necessary, to introduce a short bill to effect that object, which might, by suspending the standing orders, be passed within the short period that remained of the present Session. With respect also to the advertisement clause, by which it was enacted, that three shillings only should be paid for advertising the schedules of insolvents in the country newspapers—this was fraught with monstrous injustice. He had received numerous communications from various parts of the country, from persons interested in this, certainly not the least respectable portion of that department of literature, which conveyed important intelligence and information to the public, in which it was stated, that this clause would be actually ruinous, from the number of advertisements which would necessarily flow in, in consequence of the Act coming into operation, to the journals in which these parties were interested.

Lord *Lyndhurst* said, if a second bill were necessary for the first object his noble and learned friend had in view, could he not introduce a clause into it with respect to the advertisements?

The *Lord Chancellor* begged to remind his noble and learned Friend, that the price of the advertisement was the same as had existed for a great number of years, though he admitted, under somewhat different circumstances. But, inasmuch as the bill would not come into operation for some time, he thought the inconvenience that would arise would be but trifling as regarded the interval which would elapse between the period of the Act coming into operation and the next Session of Parliament, at the earliest period of which he should be prepared to bring in a bill to amend the Act in this respect. With regard to that part of the bill which the Commons had amended, as to the period at which the Act should come into operation, as founded upon the rules and orders to be made by the judges, he did not think a new bill was necessary on that ground, because he did not see why the Act, as regarded proceedings on mesne process, should not come into operation anteriorly to the rules and orders of the judges with respect to the judgment writs. He should therefore propose to fix the dates for the act coming into operation for the 1st October, as the bill originally stood. The effect of that amendment would be to let those out of custody on that day who were confined on mesne process which would be a great object to attain.

Amendments of the Commons, with a verbal amendment agreed to.

Lord *Lyndhurst* was glad to hear that his noble and learned Friend (the Lord Chancellor) would bring in a bill early next session to amend the advertisement clause.

Lord *Brougham*: but the mischief would be done in the meantime. On the act coming into operation there would be from three to four thousand persons who would immediately apply to the Insolvent Court for their liberation, and the advertising their schedules at three shillings each would be ruinous to those newspapers in which they must of necessity appear. Besides, if there was the slightest mistake or error in an advertisement, inasmuch as it would be considered a misdescription by the court, and the parties must remain in prison until the error was rectified, the consequence would be that every one of the proprietors of these newspapers in which such unintentional and merely clerical error might occur, would be subject to actions for damages at the suit of debtors, the hearing of whose cases might thus be delayed. It was monstrous, and contrary to every principle of justice, that such a state of things should exist between the period of the act coming into operation and the next session of Parliament.

Lord *Lyndhurst* : could not his noble and learned Friend amend the clause by stating that if the advertisement should exceed a certain number of words that it should be paid for at a particular rate not exceeding a certain sum?

Lord *Brougham* said, that could not be done, because it was one of the original clauses of the bill, and, therefore, was one which, according to the forms of Parliament, could not be amended. It had, however, been suggested to him by his noble Friend (Lord Holland) that the better way would be at once to present a bill, inasmuch as the Imprisonment for Debt Bill could pass first, enacting that the price of the advertisements of insolvents' schedules should be fixed at a certain amount or scale, notwithstanding any act which had passed during the present Session. This would remove every difficulty.

Lord *Lyndhurst :* Who is to draw it?

Lord *Brougham :* I will. The noble and learned Lord then took a sheet of paper from the table, placed it on his knee, and proceeded to draw the bill. In three or four minutes the noble and learned Lord said: I have to present to your Lordships a bill to amend that portion of the Imprisonment for Debt Bill which relates to the advertising of insolvents' schedules in England.

Bill read a first time.

HOUSE OF COMMONS,

Monday, August 13, 1838.

Minutes.] Petitions presented. By Mr. Leader, from Colonel Stanhope, and others, to secure the Erection of a Statue of Lord Byron in Westminster Abbey.—By Sir C. Style, from Scarborough, against the Tithes (Ireland) Bill.

Prisons' Discipline.] Sir *E. Wilmot* said, that the bill for the improvement of discipline in prisons having been thrown out in another place, owing, as it seemed, to some misconception respecting separate confinement and solitary confinement, he wished to ask the noble Lord whether they might look for another bill on the subject early next Session?

Lord *J. Russell* said, it certainly was his intention to bring in a bill on the subject next Session, and notwithstanding that the late bill had been lost elsewhere, he should unquestionably persevere in the endeavour to amend the system of prisons in England and Wales.

Subject dropped.

Tithes Ireland.] The Order of the Day for taking into consideration the Lords' Amendments on the Irish Tithe Bill was read,

Amendments considered and agreed to.

Lord *J. Russell* observed, that understanding that an impression existed that the Lords had altered the conditions upon which the grant of money had been made by the Commons, he felt it necessary to say, that on a minute examination of the money clauses, he found that such was not the case.

Lord *Stanley* said, that an amendment affecting one of those clauses had been proposed in the other House, but was withdrawn, lest it might in any degree embarrass the House of Commons.

Canada Government Act Declaratory Bill.] Lord *J. Russell* in moving the first reading of the Canada Government Act Declaratory Bill which had been sent down from the House of Lords, said, he did not think it would be desirable or advisable to consider then the merits of the bill, but he would explain to the House the course which he intended to pursue, which, in his opinion, would afford an opportunity of fair discussion and suit the convenience of hon. Members. The bill was founded on an act to make temporary provision for the government of Lower Canada; and for the purpose of indemnifying those who had issued or acted under a certain ordinance made under colour of the said act, with reference to the transportation of certain persons to the Bermudas. His proposition was, that the bill be read a first and second time that evening, ordered to be printed and committed to-morrow, when he would take an opportunity of explaining his views, and the House could then enter into a discussion on its merits.

Mr. *Leader* objected to the summary course about to be pursued by the noble Lord, and would take that opportunity of inquiring whether the noble Lord intended to adopt the bill as sent from the other House, or to introduce any amendments into it, and he should also wish to know whether any despatches with reference to the ordinance, had been received at the Colonial Office, from the Governor-general of Lower Canada? The only official announcement connected with the subject that he had seen, appeared in an article published in the *Morning Chronicle* of that day, and a more disgraceful or discreditable article it had never fallen to his lot to peruse. An extract of a letter written by Mr. C. Buller was published, by which it would appear "that the prisoners petitioned to be disposed of without trial." Now, this he could most positively deny, as the petitioners merely said they would throw themselves upon the mercy of the crown.

Lord *J. Russell* declined saying anything with respect to the line of conduct he should adopt. The bill had been only just sent down from the Lords, and as there had been no opportunity of reading its details, he could not then say whether he should adopt it, or introduce some amendments. With regard to the despatches from the Governor General of Lower Canada, they had been laid before the House of Lords, and if it were thought desirable, should be laid before that House also.

Lord *Stanley* would not offer any opposition to the course laid down by the noble Lord, but nothing, except the advanced period of the Session, could sanction the Government in requesting, or the House in allowing, a bill of so much consequence and such public importance to be passed so speedily through its stages. It was desirable that the discussion should take place before the largest number of Members then in town, and he would therefore assent to the proposition of the noble Lord. He reserved, however, the expression of any opinion as to the Indemnity Act, as to the illegality that called for that indemnity, as to the ordinance itself, and as to the right of any power in the Canadas to interfere with clauses introduced into the former bill, by the legislature of this country.

The Bill read a first and second time.

HOUSE OF LORDS,

Tuesday, August 14, 1838.

MINUTES.] Bills. Received the Royal assent:—Exchequer Bills; Exchequer Bills (Public Works); Transfer of Funds (War-office); Pensions; Benefices Pluralities; Militia Pay; Militia Ballot Suspension; Extension of Judges' Jurisdiction; Oaths Validity; Mails on Railways; Mediterranean Postage; Public Records; Coal Trade (No. 2); Slave Trade Treaties; Duchies of Cornwall and Lancaster; Joint-Stock Banks: Fines and Recoveries (Ireland); Corporate Property (Ireland); County of Clare Treasurer; and Sugar Refining Company.—Read a third time:—Valuation of Lands (Ireland).—Read a second and third time, Standing Orders having been suspended:—Schedules of Debtors.

Petitions presented. By Lord REDESDALE, from Fermanagh, in favour of Mr. Rowland Hill's Postage plan.

EDUCATION.] Lord *Brougham* said, that, at the present late period of the Session, there was but one course for him to pursue with reference to his Education Bill—namely, to postpone it. Many causes had prevented him from not pressing the measure forward. The first reason was, the unusual pressure of business during the greater part of the Session. There was the Canada business; then came the Slavery Question; then other points that arose out of it; and again, the discussion of matters connected with the government of Canada. This pressure of business rendered it wholly impossible for him to pay that attention to the measure which he had introduced that he would otherwise have done. Another reason was, that he could not hope to carry a bill on the subject of education without its being, in the first place, thoroughly considered throughout the country. He believed, that up to a certain point, all were agreed on this subject, and that the general feeling was, that education ought to be made general, as the best safeguard against the commission of crime. From the correspondence which he had held on the subject, and the opinions expressed by the deputations which he had received, some of them consisting of fifty or sixty individuals, persons of all sects, and belonging to various classes of the community, he found that there was a general agreement—that there was no difference of opinion as to the great principle of the measure. There was one point, however, on which considerable disagreement prevailed; and when their

Lordships heard what that was, they would see the necessity which existed for not pressing the measure forward. That point related to religious instruction. His feeling was, that every plan of national education should embrace religious instruction, and that as a part of the system the reading of the authorised version of the Scriptures should be introduced. On that point, he found some scruples were entertained by conscientious Roman Catholics. Their objection, however, could be met by the insertion of a clause, declaring that Roman Catholics and Jews should not be compelled to be present when the Scriptures were read. With such a clause as that, he entertained hardly a fear that the bill would be approved of, for he had witnessed much liberality of feeling amongst the English Roman Catholics and the Jews. Another point of objection rested on the same principle. It related to teaching the church catechism, and the thirty-nine articles. Now, he meant that, to meet this objection, it should be distinctly provided, that Jews and Roman Catholics should not be compelled to be present when the catechism and the thirty-nine articles were expounded. He wished, throughout his measure, and those with whom he had had communication participated in the sentiment, strictly to adhere to the wise and benevolent maxim—*in essentialibus, unitas; in non-essentialibus, libertas; et in omnibus, caritas.*

Bill postponed.

Commercial Relations.] Lord *Lyndhurst* rose, pursuant to notice, to present a petition from Glasgow, signed by nearly 600 persons, complaining of the depressed state of our foreign trade at the present moment. He was informed by individuals who were perfectly acquainted with the fact, that the petition spoke the sentiments of the most respectable, wealthy, and intelligent bankers, merchants, and manufacturers of that great city; and, with their Lordships' permission, he would read one or two passages from it. The petitioners said—

> "We again have to approach your Lordships' honourable House (they had a year or two since petitioned the House on the same subject) to express the anxiety and alarm with which we view the distressed condition of our foreign trade. From time immemorial, this country has been unrivalled in mercantile greatness; but that greatness has latterly been much impaired by the injuries inflicted on our merchants by foreign powers, through the infraction of treaties, and by other acts, against which her Majesty's Government should have provided. It is only by the sacrifice of our power, and the abandonment of our rights, that the commercial relations of Great Britain have been thus crippled and endangered, and we call on your Lordships to inquire into the circumstances of the case, and to afford us such redress as you may in your wisdom deem proper."

It was not his intention, in presenting this petition, to enter into a detailed consideration of the subject to which it referred, because he was well aware that their Lordships would listen with impatience, at that period of the Session, to anything that was not connected with the necessary and immediate business of the House. He should, therefore, direct their Lordships' attention, very shortly, to the different matters that had been especially pointed out to him by these petitioners, reserving to himself the right, in the next Session of Parliament, of bringing those various points that were referred to more distinctly under the notice of her Majesty's Government and of their Lordships' House. That the persons who signed this petition were not without some just grounds of complaint, would, he thought, appear evident on making reference to a document which had been laid before the other House of Parliament. It appeared by that return, that the total amount of exports for the year 1836 was 91,000,000*l.* whilst, in the last year the total amount was only 85,270,000*l.*, making a difference of nearly 6,000,000*l.* The total official value of manufactures exported from Great Britain to foreign parts in 1837 was 77,932,617*l.*, and in the last year 72,312,207*l.*, making a decrease of 5,620,410*l.* When they came to enter into the details of this subject, they would find ample matter for serious reflection. In 1837 our cotton exports amounted to 50,249,212*l.*, and 1838, last year, they were only 41,403,110*l.*, making a decrease on the export of cottons of 8,746,792*l.* If they referred again to another staple manufacture, that of woollens, the exports in 1837 amounted to 7,535,064*l.*; while last year the exports only amounted to 4,680,247*l.*, making a decrease of 2,854,817*l.* In our linen manufacture there was a decrease of 1,000,000*l.* on the exports of last year as compared with 1837. On the exports of silk the decrease was 335,853*l.*, and on hardware and cutlery 415,349*l.* The only article on which he found an increase was cotton yarn, in which there was an increase of upwards of 1,300,000*l.* Now, the petitioners desired him to call the attention of their Lordships to the circumstances connected with this extraordinary decrease of trade, and the first point to which he would direct their notice was the new Prussian commercial system. Everybody acquainted with that proceeding knew, and their Lordships knew well, the great difficulties which Prussia had to encounter in bringing the different states of Germany to accede to that agreement. And, in his opinion, a very little diplomatic skill, and a little activity on the part of the Government of this country (that was, of the noble Lord the Secretary of State for Foreign Affairs), would easily, availing himself of that dissatisfaction which the conduct of Prussia had excited, have defeated and rendered impracticable the object which Prussia had in view. Such, however, was the indifference on the part of her Majesty's Government, that the states, one after another, were persuaded or forced into that commercial league. This had produced the most dangerous results to our trade with central Germany. Not only did it occasion a decrease of the exports of this country, but manufacturing establishments had started up in central Germany; and, in consequence of the cheapness of labour, the advantage of water-power, and the assistance of machinery exported from this country, they were now enabled not only to supply their own wants, but to contend with us, and to contend successfully, even with reference to our great staple commodity, in the foreign markets. In the United States of America, which was always considered our own especial market, the cottons of Germany, and the hardware of Germany could now be purchased at a lower price than similar articles the manufacture of this country. He repeated, that it was clear to him, that a little activity and the exercise of a little diplomatic skill on the part of the noble Secretary of State for Foreign Affairs would have defeated the plan of Prussia, and prevented all this mischief. Another point connected with this subject, and one of no small importance, too, was this—that by the treaty of Vienna the rivers of Poland were to be free to the commerce of all nations. They were only to be subject to such small duties as were necessary to maintain the navigation. It was not only the waters of those rivers, but also all the transit through those rivers, embracing a trade very important to this country, that were declared free to all nations. But what had taken place? In consequence of the subjugation of Poland, the provisions of the treaty of Vienna had been distinctly and directly violated. The Russian tariff, and all the vexations which accompanied it, had been established in the districts which those rivers traversed, and serious impediments had been opposed in consequence to the progress of the commerce of England. Another point to which he wished to call the attention of the Government and of their Lordships House related to Cracow. Cracow, as their Lordships all knew, was situate on the Vistula, and the integrity of that city and of its territory was guaranteed by the treaty of Vienna. Cracow, from its situation, had of late years become a very extensive and a very important emporium. A great deal of trade with this country had been done through the residents at Cracow. It was stipulated by the treaty of Vienna, that no armed force, under any pretence whatever, should enter into the territory of that republic. On some pretence, no matter what, an armed force had entered it, had remodelled the police and constitution of that republic, and had completely new-modelled its trade. It, therefore, became desirable that this country should have a commercial agent at Cracow, to exercise vigilance over its commercial interests. That was represented, as he had been informed, to the noble Lord at the head of the Foreign office. That noble Lord declared, that the appointment of such an agent should take place without delay. To that declaration he pledged his faith, his reputation, and his character. Some representation, however, was made to that noble Lord from some quarters, that a consular agent from this country would not be allowed to establish himself in that district. The noble Lord succumbed to that representation, and did not make the appointment, to which he had pledged his faith, his reputation, and his character. Had the noble Lord stated any reason for not making it! No; he had stated no reason. He merely said that he had altered his mind, and that he would not establish a consular agent within the limits of that republic. Our commercial interests had suffered greatly in consequence of events in that district, and he therefore called the attention of her Majesty's Government and of their Lordships House to that subject. He had touched, as their Lordships would observe, only lightly on these points. Such were the observations which he had been requested by the petitioners to make, and such were the points which he had to submit to the consideration of her Majesty's Government with respect to our trade on the continent of Europe. But this was only a small part of the case which he had to bring under the notice of Parliament. By a treaty which he had made some years ago with the French, we were entitled to carry on a trade in gum on the banks of the Senegal. Two of our vessels, laden with gum, had been seized and confiscated by the French on the most unfounded pretences. What had happened? Our Government demanded redress? Had redress been granted? Two years had elapsed since that demand was made, and up to the present moment nothing had been done. Delay in such a case was a denial of justice, and not only a denial of justice, but also the destruction of our trade. And for this reason, that whilst our trade was liable to such interruptions, no cautious man would hazard his capital by embarking in it. The result was, that we had been driven entirely from all participation in the gum trade on the Senegal. He was stating facts shortly; he had not stated them with circumstances, and he left it to their Lordships to judge of the consequences likely to follow from them. We had also a treaty with Holland as to our trade with Java—a treaty most precise in its language and its terms. Certain duties were to be imposed on British goods imported in British bottoms. The duties were to be double the duties imposed on goods imported from Holland in Dutch vessels; and in case the vessels from Holland imported goods from Holland not paying any duty, we were to pay 6 per cent. on similar goods imported into Java from this country. What had taken place in Java? The treaty had been disregarded. Duties to an extravagant amount had been extorted from British merchants. Nearly 40,000*l.* a-year had been forced out of their pockets. This system had been going on for years, and was still in action. There was now 400,000*l.* due to British merchants for duties which had been extorted from them in violation of the treaty. Had any attempts, he would ask, been made to prevent the continuance of those extortions? Efforts might have been made, but nothing effectual had been done to stop the Dutch Government in its course of violation of this treaty. Such was the respect paid to our Government on the continent of Europe! Such was the respect paid by foreign Governments to treaties in which we were concerned with them! Again, we had formerly carried on an important trade with Algiers, producing a very considerable revenue. The French were now in possession of all the district of Algiers. Our trade with Algiers formerly was only liable to a duty of 5 per cent. The noble Lord who now conducted our foreign affairs had declared, that he was satisfied with seeing France in the possession of Algiers. Now, since that event had taken place a great part of our trade with Algiers had been placed under absolute prohibition, whilst the remainder had been rendered subject to the high tariff of France, which had almost annihilated it. Again, we had carried on for several years a traffic with the natives on the east coast of the Black Sea—a traffic which had given rise to a transit trade of very high importance? What had happened recently? That trade had been prohibited by Russia. The noble Lord at the head of the Foreign Department had acquiesced in and consented to that prohibition. Another point, perhaps of still greater importance than any to which he had hitherto adverted, was the position of Persia, a position of infinite importance to England, both in a political and in a commercial point of view. What had happened there? What had led to the loss of our influence with the Schah, to the insults which had been heaped upon our envoy, and to the influence of Russia, not only superseding ours, but actually directing at once the councils and the armies of Persia? At the present moment we were in a state little short of war with Persia. We had been compelled to fit out a fleet to resist the aggressions of Persia—a country in which it was most important that we should possess an influence, not only because it was a barrier of defence in front of our Indian possessions, but also because it was most advantageous to us in a commercial point of view. What had led to the present state of things? When the treaty between Russia and the Porte was concluded, by which our fleets were to be excluded from the Black Sea on the mere demand of Russia, our influence at the court of Persia came at once to an end. The Persians saw that the better and the safer game for them to play was to connect themselves with Russia, and since they had adopted that game we had been subjected to every vexation in Persia which it was in the power of Russia to inflict. These were the various points to which he had been requested to call the attention of their Lordships. When we looked at them, we saw nothing but the decline of the political influence and of the mercantile interests of the country; and when he (Lord Lyndhurst) looked around to see whether he could find any countervailing advantage for all these disasters, he could see nothing which could lead him to suppose, that we had derived any, the slightest advantage, either from the exertions or from the diplomacy of the noble Lord now at the head of the Foreign Department. He trusted an opportunity would be afforded for a more minute and particular consideration of these various questions; when that opportunity did present itself, he should be ready to enter into them much more at large than would be convenient on the mere presentation of a petition.

Viscount *Melbourne* said, he would follow the example of the noble and learned Lord, who had in a very temperate manner pointed the attention of the Government and of the House to the various subjects referred to in the petition which had been placed in his hands. Considering that this petition was, he believed, voted and agreed to in the month of June last, he might a little complain of the noble and learned Lord, who himself very much complained of the introduction of important matters at a late period of the Session, having so long delayed to present it. He did not complain with respect to himself, but on the part of the country and the petitioners themselves; if it was not to be a mere *σκιαμαχια* without effect of any kind, if their representations had any foundation to rest upon; if their complaints were just, that the commercial interests of the country were so entirely neglected as they stated in their petition, undoubtedly it should have been brought forward at a period when it might have been possible to produce some practical effect, and not at a time when it could only serve to cast an imputation on those who were intrusted with the conduct of public affairs. The noble and learned Lord began by stating that the commercial interests of the country were in a declining state, and that the exports had been greatly reduced during the last year. He apprehended the noble and learned Lord's observations applied only to the last year. Up to the close of 1836, and the commencement of 1837, the commercial affairs of the country had been in a state of progressive advancement; the exports had regularly increased generally to almost all quarters of the world, and more particularly to many of those parts where the noble and learned Lord stated they had declined. The depression of last year arose from temporary embarrassment, from overtrading and speculation, and particularly from the state of commercial credit in the United States; it was in no respect, therefore, surprising that there should be a great decline of the exports of this country, nor was there on that account the least ground for alarm or anxiety for the future. He could not doubt there would be a revival of trade from that temporary depression to which all commercial affairs in the vicissitudes of things were necessarily subject. The noble and learned Lord had pointed the attention of the Government to various subjects which he conceived to be, and which unquestionably were, of the very greatest importance; and in the first place he had directed their attention to the commercial union in Germany instituted under the influence and guidance of Prussia, and which united in one common band of fiscal regulations so many of the states of Germany. That league might be hostile, or it might not, to the interests of England; but if it were hostile, we could not complain, for it was contrary to no treaty whatever; it was a league which those states had a right to enter into if they thought proper, and which no skill, ability, or diplomatic address could have induced them not to adopt if they thought it best and most conducive to their own interests. He did not know whether it was the system of union or the high prohibitive duties established by it that was now complained of; the latter, he apprehended, was the real grievance. But that, undoubtedly, involved a question on which he did not wish to touch, well knowing it to be not very popular in that House; but at the same time they must bear in mind while they kept up such a very high prohibitive system with respect to the staple article of those states—such a very high prohibitive system with respect to that which they had to give, and which we must wish to buy—it was not easy, on very fair and equal terms, to institute negotiations with those states of the continent for greater freedom of commerce. The noble and learned Lord had also touched on another delicate and very difficult subject—the state of Poland. The power exercised by Russia in Poland was a subject dating and proceeding from a long period of time back, on which, looking to the very strong feeling it had always excited, he did not wish to make any observations. But he apprehended what the noble and learned Lord had stated with respect to Cracow, and the extent and advantage of its trade to this country, was very greatly exaggerated. The noble and learned Lord was also under a mistake when he stated that his noble Friend the Secretary for Foreign Affairs had pledged himself to send a consul to Cracow. His noble Friend never pledged himself to send a consul to that republic. He stated, indeed, that such was his intention, but something afterwards arose to alter that intention, and induce him to think it would be more prudent not to take that course. The noble and learned Lord next mentioned the dispute which had taken place with France in regard to the gum trade on the coast of Senegal. Unquestionably there had been a very considerable difference with the French Government on that subject; it was now matter of negotiation, and the noble and learned Lord might depend upon it that neither the interests of the merchants nor the interests and honour of the country would be hazarded or sacrificed in that transaction. The noble and learned Lord had also alluded to the duties levied at Java. The question in that case arose on the interpretation of a treaty entered into in 1824: the dispute had existed ever since 1827, and the present Government flattered themselves that they had taken more pains, and placed that negotiation on a better footing, and were more likely to bring it to a better termination, than their predecessors. The noble and learned Lord had said, that our influence was as nothing on the continent. But with respect, for instance, to Holland, although unfortunate circumstances had tended recently to diminish our influence there, yet had we concluded a treaty of commerce and navigation with that country, under which Holland gave up all discriminating duties, and admitted our vessels on the same footing as those of the most favoured nations. In that respect Ministers had not neglected the commercial interest of the country, and were not open to the imputations contained in the noble Lord's speech or in the petition. His noble Friend the Secretary for Foreign Affairs had never professed himself satisfied with the occupation of Algiers; but at the same time there was a great difference between being dissatisfied with a measure and taking a hostile attitude in order to remedy what had taken place; and those who occupied a country had a right to establish what commercial regulations they thought proper, and other nations had no right to complain of their exclusion. He did not deny, that the influence of England in the court of Persia was less now than formerly; but Ministers were not to be blamed for that. It was the natural course of affairs. It arose from the former war with Persia, in which that country suffered such severe reverses and lost so much territory; certainly he did not think, whatever it was, it could be dated from the conclusion of that treaty with Turkey to which the noble and learned Lord had alluded. Undoubtedly the state of affairs in that part of the world was not satisfactory, but he could not see how that should be made any charge against the Government, because results had not been so favourable or so fortunate as might have been wished. The noble and learned Lord might rest assured that her Majesty's Ministers would pay all the attention required by the magnitude and importance of the subject to which he had directed their attention; and he trusted the country would feel that her honour and interests were safe in their hands.

Lord *Lyndhurst* explained. The petition had only been placed in his hands a few days since.

Viscount *Strangford* said, that he had given notice of a motion for that night respecting the state of their commercial relations with certain states in South America; but after the powerful, clear, and comprehensive statement of his noble and learned Friend, he felt that anything which could fall from him must certainly fail to attract the attention of their Lordships. He need, however, scarcely remind their Lordships that he seldom ventured to trouble them with any observations; nor should he have thought of trespassing on their patience on that occasion did he not believe, that the matters which he wished to bring under their notice were in the highest degree deserving of their attentive consideration. His purpose would be fully answered if the facts which he had to state, and the few observations with which he should accompany them, had the effect of inducing her Majesty's Government to devote to these subjects some of those *horæ otiosæ* that were looking before them, and that with the least possible loss of time; for looking back to what had already passed, and looking forward to that which might come to pass in a distant part of the empire, he thought there was much reason to fear that before long they might be compelled to meet again in that place, as they had been compelled to meet in November last, and on the same subject, with this difference, that last year they met to apply a remedy to a disease; but next time they would have to decide on a remedy for a rash and presumptuous physician—*Non vulnera sed medicum ipsum verberibus serandum.* Some nights ago a noble Friend of his not now in his place, in presenting a petition, took occasion to deplore the state of their commercial affairs in the east; he entirely concurred in the views of his noble Friend—he lamented deeply the unsettled state in which those relations at present were—he lamented the ignorance in which men of enterprise and capital were left as to where they might trade and where they might not—he lamented the losses and inconveniences to which that state of things had led—he lamented the painful, and not very creditable, disclosures which had ensued; and in adverting to that subject let it not be supposed for one moment that he gave credit to the charges which had been made relative to the administration of their commercial affairs in the east; for he could not be so blinded by the feelings of party as to believe it possible that charges of such a nature could be brought by one public servant against another, who, whatever, might be his opinion of his public principles and conduct, stood unimpeached on the ground of personal integrity. But he had another reason for not believing those charges; he could not believe, that a man who had been in the employment and had enjoyed the confidence, who had eaten the bread of nine successive Administrations, of every shade of political opinions, could have served so many apprenticeships under so many different masters without having learnt the ordinary virtue of discretion. But, though he believed not these charges, he was prepared to say, that the property and condition of those merchants trading to the distant states of South America were in the greatest danger; and when he remembered the views, and objects, and principles with which they had proceeded in regard to the interests of those states as well as their own, he could not but think that they, of all other states, had the most peculiar claim on the good offices and on the exercise of all the influence of the Government to preserve them safe from the aggressions and violence of more powerful states; and what he wished to know was, whether that interference would be exerted, or whether the Government would remain quiescent whilst those large and distant states were exposed to the aggressions of France. The system, for it was a system, upon which France appeared to act, was this. Some grievance, real or imaginary, was got up—some case, in which French subjects, or persons claiming to be called so, were aggrieved, or appeared to be so—a demand was then immediately made by France, that its subject should enjoy various immunities, exemptions, and municipal privileges, and should be placed on the same footing as the most favoured nations, who enjoyed these privileges by treaty. Those demands were made with more or less openness, according to the circumstances of the case; but they were almost uniformly rejected, and for this reason, because those small states—and to their credit and their honour be it said—were just as tenacious and just as punctilious on any matter connected with their national honour and dignity as the more venerable and majestic institutions of the old world. The drama was the same throughout; but then came the last scene. No sooner were the demands rejected than the French admiral, or captain, or whatever he might be, *motu proprio*, began to proclaim and establish a blockade, without any further instructions from, or communication with, his own Government.

Then the commerce of friendly powers was interrupted, and vessels laden with rich cargoes, having made a long voyage across the Atlantic, were refused admission into the ports of their destination, and compelled to seek a market for their goods where they could. That practice of converting petty grievances into an excuse for serious aggression was not a new invention; and whether at Senegal, or Mexico, or elsewhere, the case was precisely the same. He would not, then, trouble their Lordships with a long detail—for it would be very long—of the circumstances which led to a demand of compensation on the part of the French Government from the Government of Mexico, for injuries which were alleged to have been sustained by French subjects there. The amount of that demand was 600,000 florins, or 120,000*l*. sterling. The Mexican Government resisted that demand because they considered it exorbitant and unjust. Whether it were exorbitant he might leave their Lordships to judge from a reference to one item in that demand. A French pastry-cook had opened a shop in Mexico, and during the disturbances which took place there some years ago, on the appointment of a dictator, that man's shop had been broken open, and some of the soldiers had made free with the good things which they found there, and, as men are sometimes apt to do, went away without paying. What did this much-injured French pastry cook do? After complaining and grumbling for some time, he magnified that attack on his tarts and jellies into an enormous outrage on the liberty of the subject, and against the majesty of Louis Philippe and the united French nation. He assessed his own damages at 20,000 hard dollars—or 5,000*l*. sterling, and transmitted his claim to the admiral, and that claim was thus incorporated into the sum total of the demand, failing the payment of which a blockade was instituted, interrupting a trade from this country—he spoke not of the indirect trade, which was very considerable, but a direct trade of no less than four millions sterling per annum. He held in his hand a list of the British vessels which had been stopped on that occasion; he would not trouble their Lordships with it, but in consequence of that state of things great loss had likewise been occasioned to British capitalists by the interruption of their mining operations. There was another point, however, to which he wished to direct their attention. Their Lordships were aware, or some day would be, for he held it impossible, that this subject should not be brought under the attention of Parliament, that there was a loan between Mexico and this country, and the payment of the dividends of the interests on that loan had been for a long while suspended; the Mexican government subsequently had entered into an arrangement by which one-sixth of the customs of the Government was to be devoted to the liquidation of that debt; but that arrangement had now been neglected, and the payment had altogether ceased. With regard to Buenos Ayres precisely the same course had been pursued by the French government. The British Government, and that of theUnited States, were among the first, indeed were the first, to acknowledge the independence of that state; and in consequence of that earlier recognition, and other services which they had rendered to that state at the very beginning of its struggles for independence, certain advantages, municipal exemptions and privileges, were granted to the subjects of those two Powers, and afterwards confirmed by a treaty. In 1830, the French government, for the first time, thought proper to manifest indications of a desire to enjoy the same privileges, and accordingly certain persons were sent from the French government to that state. Antecedently, however, to the arrival of these persons, the government of Buenos Ayres had established certain regulations for the government of their own city, and of such foreigners as chose to reside there—that they had a right to do so he apprehended no person would deny; but the effect of those regulations was to place all hose foreigners, except the subjects of Great Britain and the United States, on the same footing with the natives. Now, the first thing the French did on their arrival was to demand that French subjects should be put on a different footing from the rest, and elevated to an equality of advantages with those of Great Britain and of the United States. The Government of Buenos Ayres replied, that they were asking for more than they had any right to ask for, and, that the privileges which others enjoyed they enjoyed under a treaty. A very long discussion and correspondence had taken place on the subject. Complaints were then made, that French subjects had been injured, and forced into the militia, and unjustly detained in prison. Upon inquiry it appeared, that there were only six Frenchmen in the militia of Buenos Ayres, of which number four were volunteers; that only two men had been imprisoned, one of whom had committed murder; and the other had confessed himself guilty of robbery. That being the case, what course was adopted by the French Government? Why, they said, "Very true; there are not any of our subjects who have been forced into the militia or unjustly imprisoned; but there may be hereafter, and we will have a blockade here unless you will guarantee that hereafter no Frenchman shall be put into prison or forced into the militia." To that demand the Government of Buenos Ayres replied, that that was asking for a treaty, and that they could enter into no treaty with them so long as the French ships were at their port threatening them with a blockade. That reply produced the blockade of Buenos Ayres, and the consequent interruption of the commerce of British merchants. These republics certainly were in some measure infected with the passion of blockading each other, but they did not act in the manner adopted by the French, for they generally gave notice of the blockade to friendly States. There was another topic to which he would call their Lordships attention—namely, the encroachments which the French were making upon the northern part of the Brazilian territories, and which led to endless disputes and discussions. In 1817 the Portuguese agents in Paris were instructed to sign an order to restore to the French authorities, notwithstanding, that the Portuguese claims were confirmed by Baron Humbold. No attempt had been made by this country to put a stop to these aggressions, even when 300 miles of territory had been seized. Now, the question for us was, in what manner did this affect British interest? For the purpose of ascertaining this, it would be remembered, that the territory thus seized upon, commanded the entire of the river Amazon, whence it flowed to the sea and not to the Amazon alone, but also the numerous navigable rivers which ran into it, thus affording to the possessors the entire communication with the uncivilized tribes resident in the neighbourhood, and enabling them to withhold or advance the civilization of the latter. The Chamber of Deputies of France deemed these territories of so much value, that they had advanced grants of money for the purpose of maintaining possession of them. Why did not the British Government insist upon an adherence to the boundaries laid down in the treaties of Utrecht, Vienna, and Paris? Indeed, it had been admitted by the French Ministers, that they retained the territories in the neighbourhood of the Amazon in consequence of the advantages which thereby accrued to France. Indeed, this country had a predilection for interfering in matters which in nowise concerned her, and of shutting her eyes with respect to things in which she was peculiarly interested. He had no quarrel with France, nor would he interfere with those things which concerned alone the interest of that country; but he would call upon Ministers to exert that moral influence which this country ought to possess, having paid full well for it, for the purpose of inducing France to abstain from doing that, which was injurious as well to the other nations as to this country. It was the least which could be called for by a nation like Great Britain, which had expended so much blood and treasure in extending the freedom and establishing a secure relation between the nations of Europe.

Lord *Brougham* said, My Lords, if I had been aware, that my noble and learned Friend had intended to have brought the subject forward, I should certainly have prepared myself to have entered into the discussion; but as such has not been the case, I will trouble your Lordships with a few observations only generally upon the subject. I must, however, my Lords, in the first place, bear testimony to the very able, clear, and masterly statements of my noble and learned Friend in bringing before your Lordships, at the very close, I admit, of the Session, and at a time when there is not an opportunity of bestowing upon it that attention which a subject of such magnitude deserves—namely, the subject of the whole foreign relations of this country, through the medium of which, our commercial interests are carried on and protected. Although, my Lords, the petitioners only refer to their own interests yet the general interests of the country are involved in the subject. The observations of my noble Friend, who had last addressed your Lordships, were only with reference to one branch of the discussion

—namely, the foreign relations of this country with those of South America. My noble and learned Friend who presented the petition has taken a wider range, for his observations applied to the subject generally. I also, my Lords, understood my noble Friend, in addition to entering into the foreign relations of the New World, to refer, very properly, I admit, to the eastern parts of the old, with respect to which his opinions are entitled to great weight and consideration from the fact of his having for a considerable period lent his valuable assistance in watching over the interests of this country in that quarter, and I have no doubt, that her Majesty's Ministers during the recess will accede to his request, and bestow their best attention on this important though somewhat complicated subject. With respect to the still greater question which my noble and learned Friend has brought before your Lordships as to the diminution of the influence and power of this country, and of the diminution in the amount of the commerce of the country, if the facts are as he as represented them, of which I entertain not the slightest doubt, because I am sure my noble and learned Friend would not have stated them without he had full grounds for doing so—if the facts are, my Lords, as my noble and learned Friend has stated them, then, unquestionably, they deserve the best and most serious attention of Parliament and the Executive Government. It is a most hard and unhappy circumstance, but it is nevertheless true, that at the end of so many years of peace, and of a peace, it must be remembered, succeeding a war of unexampled brilliancy and success—after such brilliancy and success of the British arms—after the brilliant contests which have crowned our efforts with greater success than at any other period of the history of this country—after such pecuniary sacrifices—after the expenditure of our pecuniary resources has been most lavish—after so much English money has gone over to the Continent for the purpose of aiding other powers against their foreign enemies—after victories obtained in all parts of the world, from the rising of the sun in the East to its going down in the West—whether in the East or in the West, in Spain or in France, or in Belgium, where our crowning victory was gained—after all these unexampled successes, and after such an expenditure of blood and treasure, it is a most unhappy circumstance, that the influence of England, as regards foreign powers should have fallen back instead of having increased. Such a state of things, my Lords, is deeply to be deplored, and furnishes matter for melancholy consideration. It is a most unhappy state of things, but no one can say, that throughout the whole of these proceedings, the conduct of Great Britain has not been wholly disinterested. I am sure, my Lords, that no nation in Europe can say, that England ever fought or spent her money for any selfish British objects. I differed, my Lords, from those who thought the carrying on of the war necessary, but at the same time, I feel bound to bear testimony to the purity of the motives of those who carried on the war. It is vexatious, my Lords, after the expenditure of so much blood and treasure, that England should have greatly lost her influence instead of being clothed with the character of a mediator for the rest of the world. I look forward to the reconstruction of the whole fabric of European dominion—I look forward to the establishment of new arrangements and new relations with regard to our foreign intercourse, upon the principles of civil, not of religious, reformation—I look forward to the time when this country will stand at the head of the liberal and constitutional party in Europe, in the same manner as she was the protectress of the principles of reformation in the time of Elizabeth. My Lords, my political creed with respect to our foreign affairs is simple—and I speak with due deference before those noble Lords who possess a more intimate acquaintance with diplomatic laws—the meridian line which I should draw through the great and inexplicable map of Continental affairs, with all its entanglements and confusion—the meridian line which I should draw through the whole, and to which I should refer the several parts, would be England and France, friends, and upon constitutional and liberal principles—principles of perfect equality and absolute independence—of pure and unsullied national honour on the one side and on the other—the one never attempting to infringe upon the other—the one never endeavouring to lower the other or to throw distrust or suspicion upon its proceedings, because such distrust would be sure to end in hostility; but maintaining the relations of amity, and of alliance together, and then they may in the first place defy the world in arms, and, in the next place dictate peace to the world, and preserve the peace of the world upon such principles as would be most conducive to the improvement and happiness of mankind. My Lords, I heartily rejoice to think, that these two great nations continue to stand towards one another in those relations of confidence, good will, and friendship, and although the circumstance may appear trifling, I cannot help, as small objects appear great when near at hand, adverting to a matter at which I was very much pleased, namely, the excellent reception given to the foreign Ministers generally, on a late occasion, as evincing the friendly dispositions of this country, but particularly to that very illustrious warrior (Marshal Soult) whom the noble Duke opposite, (Wellington) admitted to have been one of his most formidable opponents, although, that noble Duke had defeated him, for beat him, I believe to have been impossible. This I look upon as a very happy circumstance, as tending to cement and consolidate those feelings of good will between the two countries. Now, with respect to our interference in the affairs of the East, I must say, that the less we interfere, according to my rude and unlettered view of the subject, the better. That there may be occasions when we must interfere I admit, and then it should be done firmly and without the least apprehension of consequences, and thus far I go with my noble Friend opposite (Lord Strangford.) It is no proof of the weakness of a nation to refrain from interference in small matters —tranquillity and repose are generally the characteristics of power and might, and a confidence in the resources which are at command, rather than of weakness and imbecility. Weak nations are generally jealous of their reputation; and I have often heard it said, that little men are touchy and testy, and apt to attribute puny and personal motives to others merely because their own ideas and intellects are stunted and contracted; and as it is with these pigmies so it is with nations. The stunted understandings of such men and such nations cannot soar up to comprehensive and enlarged ideas carried into effect by disinterested and straightforward men. So it is with little nations —I mean small in mental power, who ascribe the honest and straightforward actions of other countries to motives which they are incapable of. Therefore, I do not think that avoiding interference, and remaining tranquil on certain occasions, makes us less weak in times when we are called upon to exercise our power and authority. I do not mean "the balance of power," as it has been termed, but the weight and influence which we should have in foreign affairs at any given time in any part of the world. Circumstances may arise in which neither my noble Friend nor Lord Chatham himself, if he were living, with all the resources of the British empire at his command—with a unanimous House of Parliament, instead of a House of Lords against him, and narrow majorities in the House of Commons in his favour—I believe, with even all these favourable circumstances, my noble Friend could not have gained more weight than he has, and could not have altered the course of events, unless he had gone to war with all mankind—that last most desperate, and, unless unavoidable, most guilty of courses, unless the preservation of our country require it. My Lords, I am not satisfied, any more than my noble Friend at the head of Foreign Affairs, at the course pursued by the French government with respect to Algiers. It is not at all creditable to that government, which having, in the first instance, stated that it did not intend to occupy that country, has, nevertheless, held it for seven years. Such conduct is, to say the least of it, very unsatisfactory. I do not believe, nor is it consistent with my knowledge or recollection of any opinion professed in public, or stated privately by my noble Friend, that he ever said, either that he approved of, or was satisfied with, the course pursued by the French government. But it is one thing to be dissatisfied, and another to demand satisfaction. It might be said, why did not my noble Friend remonstrate—why did he not send ambassadors? Why did he not threaten? But, my Lords, if there is a mode more simple, more short, and more sure than any other to lose all the influence a nation possesses, it is to threaten what you do not mean to do. It is the same with respect to nations, as it is in individual cases; and I think, therefore, that my noble Friend does wisely not to threaten, until he is ready to act; not to act until the necessity arises, and to pass over minor matters where much more important objects are to be gained by the concession, and where more important interests are at stake. For the reasons I have already stated, I cannot enter more largely into the different matters adverted to in this petition, but I wish to say one word with respect to our commercial policy. It appears, that up to 1836, our foreign trade had been going on prosperously, but since then in Poland, in the Levant, and the Dardanelles, there has been a falling off. I am not much surprised at this falling off during past years, but I look with still more apprehension to another point, the future—because I know, that there are circumstances in the position in which we stand with regard to the Northern and Eastern Powers of Europe, where the defalcation principally is—there are circumstances of a nature that must not only not diminish the amount of the defalcation, not only not equal the present amount, but in my opinion tend very greatly to increase that defalcation, and against which circumstances no one struggle that we have hitherto made, up to the last three years, has proved successful—circumstances, which will in the end, I fear, defeat that *vivida vis* of English commerce, which has enabled it to overcome and surmount obstacles and difficulties that no other nation could contend with; much of this arises from the vicious system of commercial legislation which at present exists. What is one of them—just observe: you cannot trade with the east of Europe, unless you allow it to trade with you in return. Now, take the Baltic: timber is there cultivated, they have the finest timber, the best for ship-building, it is the best for the hull, and the best for the masts; if you want to trade with them, the natural course is to enable them to send home their timber for your hardware, your cotton and silk goods; but what do you do? Why, you levy a duty on Baltic timber for the purpose of protecting the growers of timber in Canada, the Canadian timber being of a decidedly inferior description. Gentlemen in the other House thought fit to decree, by a majority of forty, that the Baltic trade should be stunted to all time, and be restrained from gaining its natural dimensions, in order to protect the disadvantageous commerce of Canada; and you, therefore, have a worse article, not at a cheaper, but a dearer rate. Now this is not the fault of the Secretary of State for Foreign Affairs, but of the system. I will now give your Lordships another reason for the decline of trade; you don't deal in timber alone—you deal in corn. The great staple of those countries bordering on the Baltic, next to timber, is grain. Plentiful and cheap as is the grain produced in those countries, it is peremptorily said to the people, notwithstanding, "You shall not only have bad houses, but dear bread." And yet, at the very time you stunt the Baltic trade in its two great staples of timber and grain, you complain that the trade of this country with the Baltic has fallen off. To be sure, it must fall off. The consequence of this system of policy is, that you ruin your commerce and force the people to eat dear bread, and to live in uncomfortable houses. In the first place, the price of labour in this country is rendered dear by the dearness of bread. And, in the second place, it is not to be expected (although I know there is some doubt in the working of that proposition) that they will take our manufactures when we will not take their timber in return. How can you export your manufactures to the Baltic when you won't take their timber and grain in return? Well, the price of the quartern loaf has risen from 7½*d.* to 11*d.* What is the price of the quartern loaf at Amsterdam and Antwerp? Why it is 52 per cent. cheaper. It is not very comfortable for the people of England to know, that owing to the Corn laws they are eating bread 52 per cent. dearer than the Amsterdam and Antwerp people; and there is a tax paid—taking the consumption of this country at 22,000,000—there is a tax paid by the people of this country of from 17,500,000*l.* to 18,000,000*l.* a-year—another tribute to that exceedingly vicious system. There is Dantzic, Riga, Koningsberg—you can't trade with those towns; and then not only do you stunt your manufactures, by shutting up your exportation for want of an equivalent return; but you raise the price of labour, by raising the price of the best article of food in this country, which prevents you entering into competition with the French and Flemish manufacturers. They have cheaper labour, because they have cheaper bread. So that you are burning the candle, as it were, at both ends—you are refusing to take the cheaper produce of those countries on the one hand, and on the other, by this suicidal species of policy, you invite foreign manufacturers to enter into competition with you, with the immense advantage of cheaper bread, and consequently of cheaper labour. That is one solution of the phenomenon justly deplored by my noble and learned Friend and myself. In both ways you are contracting and ruining your own trade. My Lords, I was greatly surprised — I was mortified to hear the noble Viscount (Melbourne), upon the last occasion, that this subject was before your Lordships, state in a very peremptory manner, that his Government would not take the subject of the corn-laws into their consideration. There is not a more gross or inexcusable fallacy than to suppose, that because the law states, that, when the price of grain in England reaches 73*s.*, the entrance of foreign grain is no longer prohibited; the price in the English market being now up to 70*s.*, an advance of 3*s.* a quarter more in the price will open the ports to the entrance of foreign grain. This is a downright fallacy. What trader would ever venture into the corn trade when he knows, that he is at the mercy of the winds and the waves, and that no man can calculate the prices at the precise time of arrival? No man can tell when the ports will open or when they will shut—no man can tell. For example; he might send out his ship, on speculation, when the price was 73*s.*; but before the winds and the waves would allow his ship to come home with the grain he finds the price has fallen below 73*s.*,and the ports are shut, consequently his ship would be obliged to return to the Baltic with the grain. And thus, in consequence of the existing law, the corn trade is a gambling trade—an uncertain trade; and respectable men are very loath and very unwilling to enter into the corn trade, because they know the law has filled it with uncertainty and incentives to gambling speculation, no man knowing how long the ports will remain open, when once they are so. My Lords, I ought to apologise to your Lordships for having dwelt so long on this subject, and at this late period of the Session. It is, however, one that always occupies my attention. Without doing any good to the landlord, it is, as a noble Friend of mine (Earl Fitzwilliam) has said — the only person with whom I agree in this House, on this subject, and who is the greatest landlord in England or Ireland —it is a gross delusion to suppose, that anything be so good for the landlord as to have a fixed duty, which would cause corn always to be at a steady price. It would be better for the country—it would be as good for the producer, in my opinion, as it would be good for the cons mer. My Lords, these are the observations which I deemed it my duty to make on this question.

Lord *Lyndhurst* explained, that the French minister to whom allusion had been made had stated, that Lord Palmerston had represented to the French government, that if they kept within the limits of the ancient palace of Algiers, the English Government had nothing whatever to demand. This statement had appeared in the French official journal, the *Moniteur*.

The Duke of *Wellington* observed, that, beyond all doubt, there was no subject of so much importance to the country at large as a debate upon our commercial relations. He was of opinion, that we were now in that state, that the maintenance of the great extension to which those relations had arrived two or three years since was, he feared, absolutely essential to our existence. Nay, he apprehended, that the maintenance of the continued increase of that extension was essential to the prosperity of this country. It might be very difficult to maintain that extension in such a state as it had existed in some years ago, and also to maintain it in such a state, that it might gradually and permanently increase. The commercial relations of this country was a subject which he always approached most unwillingly, and particularly at this period of the Session. Their Lordships' House was not exactly the place in which such questions could be discussed with advantage. It would be a very different thing if that House were to apply the remedy, but above all it was quite obvious, that they could not enter on a general question of this nature, affecting our commercial relations and encompassed with difficulties, without getting into the very topics which the noble and learned Lord opposite him brought before their Lordships a few moments since—he meant the corn laws and the timber trade. He would certainly not follow the noble and learned Lord into any detailed discussion of those two questions. But he must say that in the few words which had fallen from the noble and learned Lord upon both those questions he had displayed as much address as he had ever witnessed on the part of that noble and learned Lord. The question of the timber trade was a question not only of colonial policy but of navigation. It was a question in which this country, and the trade of this country, were both materially interested. It was not a question of mere traffic in respect of the prices of different markets, but a great question both of navigation and of colonial policy. He was perfectly aware of the motives for bringing forward this question at the present period, and he must strenuously protest against it. He thought that it was not acting fairly towards the trade of this country, and more particularly towards those questions which had been brought forward by his noble Friend behind him, and by the noble and learned Lord opposite. The question of the corn laws he looked upon as not only a question of great commercial interest, but also as one of the highest internal, and legislative importance. There was one point of the discussion with regard to this question which the noble and learned Lord opposite had entirely omitted in the course of the discussion which he had introduced that evening—that was the influence of the system of corn laws, in the first place, upon Ireland. He had left that entirely out of the question. Another point which he had left out was the security to this country of its independence with regard to the article of food. There was no point more certain than that, if they came to be entirely dependent on the countries bordering on the Baltic, they would have the King of Prussia, and the Emperor of Russia (as had been done before) levying a tax upon the importation of that article of food into the Thames and elsewhere in this country. He would not follow the noble and learned Lord further into this subject than just to observe these little omissions in his speech, which he considered, however, to be very important. He would, at the same time, observe that when noble Lords brought forward subjects of this description, they should never forget that they were quite sure to be met either by friends or opponents with corn laws and timber duties. There was another observation of the noble and learned Lord's to which he must shortly allude. It was with respect to the expediency of avoiding any interference with foreign powers on the subject of commercial matters. Now he confessed that he could not view the state of our commercial relations, and of our position in the world generally, in connexion with these commercial pursuits, with any degree of unmixed satisfaction. On the contrary, he did deplore the state in which they found themselves placed in many parts of the world, particularly as had been described in the course of the evening by his noble Friend (Lord Strangford.) What he attributed that state of our commercial relations to in a great degree was the extreme weakness and tottering condition of our naval establishments. He did not now mean to complain of the distribution of our naval establishments; though, at the same time, he by no means meant to unsay what he had said in respect to the expeditions to Spain, which he could not approve of; but he repeated his expression that he considered our naval establishments to be in too weak and tottering a condition to answer the purpose for which they were intended, which was to give protection to the commercial interest of the country in all parts of the world; for the commerce of England did extend to all parts of the world. There was not a port, not a river, not a portion of the world which was not visited by the ships of her Majesty's subjects and her Majesty's subjects had an undoubted right to protection in, whatever part of the world they might think proper to visit in the pursuits of commerce. The circumstance of which he complained he did not at all attribute to neglect upon the part of the Admiralty, neither did he include in his censure the noble Earl who was at the head of the Admiralty; but those whom he did blame were the individuals who had thought proper to reduce the establishments of the country to such a degree that protection could not possibly be given in all places where it was required. He would now call their Lordships' attention to some of the matters which had been alluded to by his noble Friend (Lord Strangford.) He would say nothing about the question as existing been France and England with relation to the Mexican government. There was a disputed claim, amounting to about 600,000 dollars, not more than 120,000*l.* sterling; and he was not quite sure that it would not be better for the Mexican mine-owners to pay the money at once, and thus prevent the blockade from continuing any longer. The French Government had thought proper to declare war against the Mexican government in order to recover the amount of this demand. They had a perfect right to do so if they thought proper. He did not at all dispute that right. But what he said was, that it was the duty of our Government, and of our Minister in Mexico, to turn their serious attention to this question, with a view to put an end to these hostilities by the exercise of every description of amicable office between the two parties, so as to prevent the continuance of such an evil to Mexico, and above all to her Majesty's subjects, and to those engaged in the great mining concerns of that country. When the Minister, who was concerned in carrying on the negotiations on the part of the French Government with respect to the claim for 120,000*l.* the subject of this war, placed himself for protection on board one of the vessels composing the French fleet, in the harbour of Santo Sacraficio, how could the representative of the English Crown upon the spot treat with the French minister at all, if he had not some force at his back? He did not at all wish to threaten, but what he desired was, to have amicable intercourse with the representative of France. But to have it he must be on an equal footing with him. He could not allow him, while he was aboard of his fleet, to say to him, "Why, you have not even a cock-boat." The French minister was here on board of his armed vessel, in the midst of his fleet, lying in the harbour, and the British Minister had no support or assistance whatever. Here, then, was a blockade regularly established. It was desirable that her Majesty's Minister at Mexico should know the exact situation of the blockade; that he should know whether it was a legal blockade, and whether the blockading power had a force sufficient to maintain the blockade or not, in order that no collision might take place between her Majesty's subjects and the blockading force. He did not blame the noble Lord (Lord Minto) for what had occurred, but he blamed the state, and he would say, that we had reduced the navy too low, and that we had not sufficient means of protection for her Majesty's subjects. He was not very well acquainted with the position of affairs in Mexico at present, but he could state, that when he was in office, some two or three years ago, he had settled a Mexican case, in which there was also some money concerned; the sum was much larger than 120,000*l.*, and he must say, that he went by an entirely different road from that which had been adopted by the French Government. As the case was of some importance, it went through the whole world, and was blazoned by the different newspapers, but it was settled without any threat, or anything of the kind whatever, except the usual statement of facts and treaties. With respect to this case, there was a want of the requisite information. It was not known whether the blockade was illegal or not. For his own part, he had not seen any notification of the blockade to the public, and if no such notification had been made, then there was no legal blockade. He believed, that the Admiral had no right to proclaim a blockade without having a sufficient force to maintain it, and he believed it would not have been done if we had had a sufficient force in that part of the world, and if our admiral had been properly supported in representing that this was not a legal mode of effecting the blockade. He was positively certain, although he had not had the opportunity of seeing any returns, that he was not mistaken on this point, nor in saying that this course might have had a great influence on the interest of her Majesty's subjects. He would remind their Lordships that since the peace, and particularly within the last twenty years, those great navies had sprung up in Europe, which were four times as strong as they were at any former period. Other navies, it was true, were put down, but we remained much the same. A great deal had been said by way of comparison between the strength of our navy in 1792 and in the years 1814 and 1815; but when we talked of the strength of the navy, we ought not to look at the subject without adverting to the naval establishments of other Powers. But, although our navy was on the same footing as before, our commerce was not only tripled, but extended to a degree ten times greater than it ever was before, and there was not a part of the earth, from one end of the poles to the other, in which the protection of our navy was not required for our commerce. He must say, that if we should at any time incur the misfortune of being involved in another war, which God forbid, the only mode of keeping out of difficulty would be to maintain such a navy as would give protection to her Majesty's subjects in all parts of the globe. This was the ground on which he supported the views of his noble Friend who spoke behind him, and those of the noble Lord who sat on the cross bench, really feeling as he did that this was a question of great importance, and that if he could bring the Government and the public to look at this question in a proper light, we should get rid of all difficulties.

The Earl of *Minto* was rather glad that the noble Duke had dwelt as he had done in the latter part of his speech, upon the present state of the navy, inasmuch as it enabled him to correct, in a few words, a great deal of misapprehension which prevailed upon that subject. He might perhaps agree pretty much with the noble Duke in thinking, that at times there had been too great a disposition, from motives of economy, to curtail the naval and military forces of this country. But at the present moment, he thought they were somewhat corrected of that error: and with regard to the navy, it would be in the recollection of the noble Duke, that no difficulty whatever was experienced three years ago, when a proposal was made to Parliament for a very large addition to the vote of seamen for the navy. With respect to the naval force at the present moment, if it were not sufficient for the public service, he (Lord Minto) must take some blame to himself; because he certainly did not feel that there would have been any difficulty in obtaining from the country an increased force if it were necessary. But he had not received information from any one of our naval stations that the force placed there was not perfectly adequate to all the exigencies of the public service. Upon all the stations to which the noble Duke had referred, there was a very considerable force, and upon the South American coast, in particular, the force was now much greater than it had been for many years before. There was now at sea a larger number of ships of the line than had been permanently employed for very many years past. From seventeen to eighteen sail of the line were at this moment in commission, and of that number a very considerable portion were disposable, and might at once be sent to any part of the world where their services were required. But agreeing as he did with the noble Duke in the absolute necessity of maintaining a very large naval power in this country, available at any moment, it did not, at the same time, appear to him to be necessary that the whole of the ships carefully kept in a state of readiness, should be actually in commission and at sea. He thought it sufficient if the arrangements of the Admiralty were such, as to enable it at a very short notice to increase the naval force of the country and to send large fleets to sea. That was the present state of the navy, and he could say with the most entire confidence, that no call could be so sudden as not to be met with the greatest easei n he equipment of a very large and powerful fleet. If the force in Mexico were not sufficient, it was to be remembered, that upon the North American station there was a much larger force than had ever been there before, and that if the necessity should arise, any part of it would be available for Mexico. The blockade to which the noble Duke had referred, was a perfectly regular blockade, and one in which England could not interfere—it was regularly announced, and sufficiently maintained, by the blockading power—it was one, therefore which the British admiral in those seas would not be at liberty to disregard or to break through. He did not rise, however, to speak upon that part of the question, he was principally anxious to avail himself of the opportunity of stating that the naval force of this country at present afloat and in commission was much larger than it had been for many preceding years, and certainly quite equal to all the claims for protection of which he had heard ; and that there would be no difficulty whatever, from the state of the ordinary and stores, in sending a very large and powerful fleet to sea in the shortest possible time.

The Duke of *Wellington* did not mean to dispute the noble Earl's statement with respect to the number of ships in commission and at sea; but he understood, that many of them were not half manned and armed, and that this was particularly the case with respect to two ships at present in the St. Lawrence, where it was supposed every ship ought to be fully equipped. What he meant with respect to the increase of the naval force upon the coast of Mexico was, that the minister of the country, backed by an imposing display of power, should be in a condition to settle disputes of the kind between foreign nations, especially when those disputes operated so prejudicially upon the commercial interests of this country. With that view, he would have upon the Mexican coast such a commanding naval force as should at least be equal to that of one of the belligerents engaged in carrying on what he could not but call this unjustifiable dispute. He did not say, as the noble Earl seemed to suppose, that the British officer commanding in those seas should attempt to raise the blockade. All that he said was, that this commanding officer should be armed with such a force as should enable him to watch the blockade, and to see that it was carried on with a sufficient force. His great object, however, in speaking at all upon the present occasion, was to impress upon their Lordships, upon the Government, and upon the public, the absolute necessity of our having a strong naval force in all parts of the world.

The Earl of *Minto* begged to correct a mistake into which the noble Duke had fallen, when he supposed that the ships in the St. Lawrence were only half manned and armed. The truth was, that the admirals upon all the different stations, with one solitary exception, had, of late, represented that it would add very much to their convenience, and to the convenience of the service, if, instead of sending troops out in very large frigates, they were to be allowed to go out in line-of-battle ships, without the lower deck guns. This suggestion had been very generally acted upon; but the moment that affairs assumed a critical appearance in the St. Lawrence, the lower deck guns were sent out to all the ships there, and at the present moment Sir Charles Paget's squadron was fully and completely armed.

Petition laid on the table.

SOUTH AMERICA.] Viscount *Melbourne* suggested, that the noble Viscount on the cross-benches, had better state the terms of the motion which he wished to make.

Viscount *Strangford* accordingly moved for copies of any notices given by the French government on the subject of the blockade established by a French naval force of the Mexican or Brazilian ports; also for the date of any application which might have been made by the Mexican or Brazilian government for the mediation of England in relation to this question.

Viscount *Melbourne* had no objection to the first part of the noble Viscount's motion, nor to the second, if any such documents existed. With respect to the general tenour of the noble Lord's speech, he must say, that a blockade was very much to be lamented, very injurious to trade, and fell very heavily on those who were subjected to its operation. At the same time, every nation possessed the right of making war, and blockade was one mode which had been adopted by every nation—by ourselves amongst others—of obtaining satisfaction for injury, and we ought not hastily to act as judges, and declare whether a blockade was legal or not. He perfectly concurred with the noble Duke, that the British authority in Mexico ought to be in a position to see that the blockade was kept in a proper form and with sufficient force; but still the Government would not be justified in constituting itself a judge between the government of Mexico and the government of France. He understood that the government of Mexico had been willing to have the settlement and arrangement of the matter referred to the Government of Great Britain; but the French authorities had refused to allow such interference, and, therefore, it would not have been proper for this country to make a direct offer of mediation between the two parties—at the same time Mexico might rest assured of the good offices of this country whenever she might think proper to avail herself of them. The noble Viscount had also spoken of an invasion by the French of part of the Brazilian territory, namely, Portuguese Guiana, and had alluded to certain maps which were in the Foreign-office, showing that the French occupied a province called Macau, or Macauba, on the left bank of the river Amazon. This possession by the French had been settled by the treaty of Utrecht, and by several other treaties on the subject. It was again settled, by the treaty of Vienna, stating the limits of the possession, stating the name of the river bounding it on one side (a strange sort of name), and the exact degree of latitude in which the mouth of the river (which was to be the boundary), was situated. The matter was, however, to be settled between France and Portugal, by a subsequent convention, and in 1817, that convention was negociated, and by it the mouth of the same river was retained as one boundary point, but the latitude was altered, and gave to the French a greater extent of territory than France had before possessed. To make out the boundaries of the increased territory, commissioners were to be appointed; and if they could not agree, it was arranged that the mediation of Great Britain was to be resorted to. Now, whether or not those commissioners had settled the boundaries he did not know; but as there had been no demand made upon this country to interfere, without which demand the country could not act as mediator, he presumed the question as to boundaries had been arranged by the commissioners acting under the authority of the convention. Under these circumstances, it was serious matter for consideration, whether or not this country ought to interfere at all.

Motion carried.

TRADING COMPANIES.] Lord *Brougham*: I should hope that the noble Lord on the woolsack does not mean to press this most exceptionable bill, founded on a principle the most abominable, for carrying into effect the bad act of last Session, giving rise to every species of fraud and dishonesty. It has not answered in France. A man of straw is set up, and all the rest are answerable only to the amount of about 100*l.* I hope the present Trading Companies Act will not pass, and if it is brought forward now, I shall move that it be read a third time this day three months.

The *Lord Chancellor.* I cannot give up the Bill.

Lord *Brougham.* Then, my Lords, I move that the Bill be read a third time this day three months.

The *Lord Chancellor.* My Lords, in order to accommodate my noble Friend, as he appears rather anxious to quit the House, I will at once move the order of the day for the third reading of the Bill.

Lord *Brougham.* Then, my Lords, I move as an amendment, that the Bill be read a third time this day three months. The object of the Bill is to enable the Crown to constitute any three or twenty persons a corporation for the purpose of carrying on a trade; at the same time making those persons liable only to the amount they have embarked in that trade. Now that, my Lords, in my opinion, gives a licence to every species of fraud. The last Bill that has been introduced on this subject has been productive of the worst results, and the effect of the present measure will be to make that which was bad enough before, ten times worse.—Therefore it is that I hope your Lordships will not allow this measure to be read a third time.

The *Lord Chancellor.* My Lords, the bill of last year requires great alterations, and the object of the present measure is to supply its omissions and defects. The Act of the last Session authorised the Crown to sanction the incorporating associations of persons for effecting, by their joint capital, public works and objects, but it did not comprehend companies formed prior to the Act. The object of the present bill was to remedy that defect upon all companies complying with the regulations laid down by the act that was now in force. There is sometimes great difficulty in making corporations pay the demands against them, because very often their property is not to be found; by the present bill, every person must register their shares; parties, therefore, well know the extent to which they are liable, and the public will be aware of the persons with whom they have to deal.

Lord *Brougham.* My Lords, I have already stated to your Lordships the objections I entertain to this measure, and also to the bill of last year. That measure gives to the proprietors of Trading Companies only a limited responsibility, and relaxes that care and vigilance which every partner in a concern ought to keep over the whole of his partners. The result of which is, my Lords, that for want of that vigilance many a concern will be brought to a stand still, and many hundreds of individuals will be ruined. Oh! but, says my noble and learned Friend, the names of all the shareholders must be registered. Now, I think there is very little in that. We all know the effect of great names, such as Baring, Mellish, and others. A man when he gets a bill of theirs, does not go inquiring about their respectability, because he knows he can get the money for that bill at any time; so with respect to many of these companies, people don't go to the Register to see who are proprietors and who are not. They see great names attached to the direction, in many instances without the sanction of the parties, they give them credit, they advance them money, and probably the next day they find them all in the *Gazette.*—Now, a law on the same principle has been tried in France, and most signally failed. It is the practice often in companies, for some of the acting partners to fabricate accounts of fictitious property, and to make it appear that they are able to pay a dividend of twenty per cent. for the present year, and a similar dividend for the next, and so they go on till the whole capital is absorbed, while all the time there has been nothing but loss instead of profit. It is very easy, my Lords, to produce mystification and delusion by means of accounts, when persons are disposed to do so; and, therefore, it becomes necessary that means should be taken to prevent such proceedings. Under the good old system, in case of a defalcation, the directors were made to disgorge their profits if it should be proved that they had not acted fairly, but under the new French system they are allowed to pocket their own accounts, to the ruin of the other shareholders, and are not to be liable beyond the extent of 100*l.* I think, as I have clearly shewn, that the result of this system in France has been most mischievous, your Lordships will hesitate long before you make it effectual in England—and that being the object of the present bill, that you will reject it altogether.—The measure, my Lords, was originally resorted to in a poor country, where the means were required to draw capital into trade, but that is not the case in England, for here there is too much disposition to invest capital in trading speculations. My Lords, it is far from my wish to check the spirit of fair speculation, but I cannot but think that the present bill if it become law, would tend to encourage the investment of small sums in enterprises which would neither afford benefit to those engaged in them or the community at large.—For these reasons I trust that your Lordships will reject the bill.

The *Lord Chancellor.* My Lords, the observations of the noble Lord may apply very well to the ordinary matters of trade, but they can have no reference at all to great public works. My Lords, I would ask your Lordships whether there are no Railway Companies and no Canal Companies whose directors deal fairly with their proprietors? The real question for your Lordships is, whether the proposed system is not better for the individuals concerned and the community at large, than that of placing their capital in the hands of Corporations, against whom the individual creditors could not enforce their claims?

Lord *Brougham.* I beg to say it is not. Five hundred persons cannot form themselves into a company—they must have an Act of Parliament, and the Act of Parliament almost always gives them a general responsibility, and hardly one of them are liable. If Railway and other Companies go on well, much of this is to be attributed to the wisdom of Parliament, and the new rules of the House, by which the merits of every private bill are fully and accurately sifted. By the present bill the whole details are taken out of the hands of Parliament, and transferred to the discretion of two or three private individuals, who may perhaps be influenced by party or personal motives.

The House divided. Contents 10; Not Contents 12; Majority 2.

Bill thrown out.

Duties on Tin.] The order of the day for the House going into Committee on the Duchy of Cornwall (Tin Duties) was moved.

The Earl of *Falmouth* said, that this bill had originated in consequence of the course which the Chancellor of the Exchequer had very fairly thought it his duty to pursue with respect to the dutie on foreign tin. He (the Earl of Falmouth) had nothing to do with the origin of the bill, and desired that it might be distinctly understood that he washed his hands of all responsibility attaching to it; but finding that the Government was determined to carry this joint measure into execution, he felt it his duty to look to the protection of the mines of Cornwall, and therefore he had communicated with and taken a part in various committees which had sat in London having that object in view. The course which he should pursue with respect to this bill would depend very much on the answer he should receive from the noble Viscount at the head of the Government as to a certain declaration which he understood had been made by the Chancellor of the Exchequer in another place, namely, that this measure was by no means to be considered as a final measure; for if it should not appear that a duty of 15*s.* per hundred-weight would not allow a sufficient free trade, he should be prepared next year to propose a still further alteration. He could only say, that the gentlemen of Cornwall had never contemplated anything of that kind, but they thought that the duty having been fixed at 15*s.* per hundred-weight the question was settled, and not liable to be re-opened again in future years. The prosperity of the tin mines in Cornwall was not a matter of mere provincial interest, but of national importance, and the effect of their stoppage would be not only ruinous to the county, but injurious to the general prosperity of the country.

Visconnt *Melbourne* said, that he believed all that had been stated in another place by the right hon. the Chancellor of the Exchequer was in answer to an observation which had been made, that the duty was too small; if it should be found to be so, it might be made larger. It was impossible that any protecting duty could be unalterably and unchangeably fixed for ever: that was contrary to the nature of things, and beyond the power of human legislation. He trusted that the measure would be found to work so satisfactorily as to allay all the apprehensions which seemed to prevail concerning the result.

Bill committed and reported without amendments. Ordered to be read a third time to-morrow.

The House then adjourned at half-past ten.

HOUSE OF COMMONS,

Tuesday, August 14, 1838.

MINUTES.] Petitions presented. By the Marquess of DOURO, and Lord STANLEY, against the Encouragement of Idolatrous Worship in India.—By Captain GORDON, from Weymouth, for an Extension of ihe Established Church in Upper Canada.

CANADA—DECLARATORY AND INDEMNITY BILL.] The order of the day for the House resolving itself into Committee on the Canada Government Act Declaratory and Indemnity Bill having been read,

Lord *John Russell* said: In moving, Sir, that you do now leave the chair, I find it necessary to address the House, not only with respect to this bill but with respect to certain comments that have been made upon the subject out of which the bill has arisen. I cannot feel any surprise that the hon. Gentleman, the Member for Westminster (Mr. Leader) should have asked me yesterday whether I intended to propose any amendments in the present bill, or whether I meant to ask the House to adopt it without any amendment whatever. At the time, however, that the hon. Gentleman asked me that question I was not aware whether additional words might not have been introduced into the bill subsequently to the time when it was first ordered to be printed by the House of Lords. Having since seen the bill, I can now state to the hon. Gentleman that it is my intention to propose to the House of Commons—a proposal which I shall make very reluctantly—that it should assent to the bill as it came down from the other House without any amendment. I say that I make this proposition with reluctance, because, I feel that if we were at any other period of the Session, that if the House were not utterly exhausted by the labours of this protracted Session, that if the attendance of Members were not at present so much reduced in numbers as to render it impossible to expect such an expression of the opinion of the House as would carry due weight with respect to a large measure of this importance, I certainly should have thought, after the comments that have been made—after the doubts that have been expressed—that it would have been proper to introduce into this bill some other and additional clause in order to make clear what were the intentions of the Legislature with regard to the affairs of Canada. It has been thought in the other House of Parliament that it is proper to propose a bill of indemnity with regard to certain parts of an ordinance passed by the Earl of Durham and the special council in Canada, indemnifying persons who may have acted under that ordinance with respect to sending certain prisoners to the Bermudas, or keeping them in restraint in that cluster of islands. It has likewise, as I understand, been the decision of the House of Lords that they would not proceed any further than to give that indemnity. Clauses were proposed in the original bill, and subsequently in the Committee, to make a declaration on the part of Parliament with respect to the meaning of the act; but it was thought better to pass that subject by altogether, and not to raise at the present period of the Session any of the new questions that might be mooted in consequence of a declaration either one way or the other in reference to certain parts of the bill which passed at the commencement of the Session with respect to Lower Canada. Such having been the decision of the House of Lords, and it being now submitted to the decision of this House, I feel that it would be fruitless in me to endeavour to obtain a declaration of opinion on the part of this House which would not be esteemed as a declaration carrying with it the authority which a discussion and decision at an earlier part of the Session would have been calculated to produce. I feel undoubtedly, especially after what has been said, that in declining to take that course, that in abstaining from proposing any amendment or any new clause, the responsibility of the Government at home, and of the Governor-general who is to administer affairs in Canada, whether it be the Earl of Durham or any one else, is exceedingly increased. I feel, however, weighing together the advantages and the disadvantages on the one side and on the other, that as far as we are concerned, it is better to incur the increased responsibility than to make any fruitless attempt at obtaining a more clear and decisive declaration of Parliamentary opinion. Therefore what I propose is, that the House of Lords having decided that in their opinion, and, as I understand, from my hon. and learned Friend the Attorney-General, in conformity with his opinion also, that so much of the ordinance of the Earl of Durham as related to keeping persons in restraint in the Bermudas could not be justified by law, and that, therefore, it was necessary if Parliament wished to avoid the evil consequences which might arise to the persons who had acted under that ordinance, that an indemnity should be granted by Parliament—such an opinion having been expressed, such bill having come from the House of Lords, and such being clearly the opinion of legal authorities generally, I will not say the opinion of every legal authority, but of the greater number of legal authorities who have pronounced any opinion upon the subject, I think this House can hardly hesitate, unless it be disposed to refuse any indemnity whatever, to give its assent to the passing of a bill of this nature. There is, however, another question to which I am obliged to call the attention of the House; and I do it not only in consequence of public comments which are notorious, but likewise in consequence of the few words which fell from the noble Lord the Member for Lancashire last evening. I am most unwilling to call the attention of this House in any way to the general nature of the proceedings which have been taken by the Earl of Durham since he assumed the government of Canada. I have asked the House more than once to forbear from expressing an opinion upon those proceedings until the case came fully before them, until the progress of Lord Durham's administration in Canada being more completely known, the House might act with a better knowledge of all the circumstances, and be enabled to come to a more sound and mature decision. If I repeat that opinion now it is not for the purpose, far from it, of implying that in this House there has been any disposition to refuse that which I thought a reasonable request. On the contrary, I have to express my grateful thanks to the House for the forbearance which it has shown upon this subject—a forbearance which I will not attribute either to any regard for the reputation of Lord Durham, or to any confidence which certain portions of the House did not profess to feel in her Majesty's present Government, but which I ascribe to the higher motive that forbearance would be more in accordance with the general interests of the empire than a precipitate or premature interference with the government of Canada. And when I say that such has been the forbearance of this House, I make no exception with respect to an observation made upon a question put by the right hon. and learned Member for Ripon (Sir E. Sugden). A doubt had occurred to his mind; he stated that doubt with perfect calmness and fairness, without anything like a charge or an imputation upon any one. Having conceived the doubt, it was only just and fair on his part that he should state it in the manner he did, and accompanied with the declaration which he made, and in which, I believe he was sincere, that he was most unwilling to menace in any way the authority of the Governor-general in Canada. But we cannot disguise from ourselves that there have of late been comments made, with which the public are well acquainted, with regard to the meaning of the act which was passed at the commencement of the Session—comments which affect not only those points of an ordinance issued by Lord Durham which relate to the Bermudas, a place out of his jurisdiction, but which affect his authority and the authority of any person who might be governing in the name of her Majesty in Lower Canada—comments which tend to deprive the representative of her Majesty of all means, of all civil means at least, of meeting conspiracy, and preparation for rebellion, which go to encourage those who may be preparing for fresh insurrections, and rebellions, and which are calculated to cast doubt and uncertainty upon the whole of those questions which the Government and I believe the great majority of the House, supposed had been positively settled during the discussions upon the Canada Bill at the commencement of the year. In saying, however, that we mean to undertake the responsibility of governing Canada under this Act of Parliament, I cannot refrain from declaring what is the sense which I place upon the bill which was introduced and passed upon this subject in a former part of the Session. My noble Friend yesterday said, that there might be questions with regard to the whole of the ordinance, with regard to the power it would exercise, with respect to persons who either might confess themselves to be guilty, or be found to be guilty, and with regard to the interference it might make with the ordinary proceedings of the criminal law. I think that the interpretation which I understand some have put upon the Canada Act, namely, that by certain words introduced into a proviso it was intended by Parliament, that there should be no interference by suspension, alteration, or repeal of any part of the criminal law of this country in Canada, is an interpretation totally at variance with the fair scope and clear intention of the Act. From the first words of the title to the last words of the enactment, such an interpretation is, in my opinion, entirely contradictory of the whole meaning and purpose of the Act. The meaning of the enactment—I will not discuss particular words of it, because I would rather leave that part of the controversy to persons of legal authority, which I cannot pretend to—but the whole meaning of the Act as we proposed it was, that whereas it was impossible to call together any legislative assembly in Lower Canada, and whereas it was impossible without some legislative power, to provide for the exigencies which might arise, therefore an authority should be created by Parliament, competent to meet these difficulties, and to provide for these mischiefs. It might have been proposed, and no doubt it was a matter of deliberation, whether by suspending only part of the laws, which provide for the liberty of the subject, the danger of conspiracy and revolt, might not be guarded against; but it seemed a more complete, a more full, although undoubtedly a more arbitrary act, to propose to create an authority which should be able to provide laws in Canada necessary for the occasion. Accordingly the act provides with respect to certain monies that are to be issued, and establishes guards against any increase of taxes and against any unfit appropriation of a surplus; the whole of it evidently intending that with these guards the legislative authority of the province was to be exercised by the Governor-general and the Special Council which you constituted in Lower Canada. If, on the contrary, the act is to be interpreted by the few words which say that no act of the Parliament of Great Britain or of the United Kingdom is to be interfered with, it would be impossible for the Legislative Assembly in Lower Canada to be put a stop to, because the Act of 1791, which constituted the Legislative Assembly in that province, provided that the Assembly was to grant money and appropriate money for the service of the Crown. It would be impossible, therefore, to provide for the necessary wants of the province, if you were to say that these words were to be construed in the sense in which some persons say they were intended, namely, that there should be no interference whatever, by the legislative authority in Canada, in anything connected with an act of the Parliament of Great Britain. But I think it is still more extravagant to say, that, because by an act of 1774, the criminal law of this country, was transferred in a body to Canada, therefore every proceeding under the criminal law—every proceeding which may be observed in times of quiet in this country, but which are often suspended in times of disturbance—must be kept in exactly the same state, and without any alteration whatever during this period, when you have thought fit to establish an extraordinary authority in Canada. But although such an interpretation would be evidently contrary to the whole meaning and purpose of the act, I can conceive that it might be said that such, however contradictory it might appear, was the intention of Parliament, and that, in assenting to the Canada Act, it was clearly announced and generally understood that there was an exception made, by which it was impossible to suspend any part of the laws providing for the liberty of the subject, and for criminal trials in Canada. But was this the case? I have referred to that which was stated both by myself in bringing forward the bill, and by others in subsequent stages of the bill. I see on the first day, when I brought forward the address to the Crown, I stated that the meaning of the Special Council was, that the Governor-general, assisted by that body, should pass such acts as occasion might require for the government of the province; and the next day, when I moved for leave to bring in the bill, I stated, that the object of it was to enable the Governor-general in council —the council not being limited in number, but of which five should be sufficient to constitute a quorum—to pass any laws which might be considered necessary during the temporary suspension of the Legislative Assembly of the province. That was the general purport of the statement which I made, evidently meaning that the general legislative authority of the province, such as was possessed by the Legislative Assembly of Lower Canada, was for a time to be given to the Governor-general and the Special Council. Was any objection made to it? No. No objection was made to the bill, except by those who opposed it altogether as establishing a dictatorship. Yet the bill was very amply discussed during its progress through the House, and several amendments were proposed in the Committee. Amongst others, certain amendments, to which the attention of the House was very much called, were proposed by the right hon. Baronet, the Member for Tamworth. Those amendments, as I have said, attracted, and very naturally so, a great deal of attention. The right hon. Baronet gave notice of them several days before they were proposed in this House; and after very mature deliberation, they were finally adopted by the House in Committee. Those amendments, however, did not touch any of the points to which I have been alluding. There was one amendment, certainly, which the right hon. Baronet proposed, which would have made an alteration, not upon this point, but with regard to the authority of the Governor-general and the special council. The right hon. Baronet proposed to omit that part of the bill by which the Governor-general should be alone empowered to propose laws to the Special Council; but in consequence of the observations made by my right hon. Friend, the Member for Coventry (Mr. Edward Ellice), the right hon. Baronet abandoned that part of his proposition; thus leaving, as it were, to the Governor-general the sole power of proposing, or rather of originating, such laws as might be deemed necessary for the government of the province. But in the course of the debate, other statements were made with respect to certain laws, both by my noble Friend (Lord Stanley) and by the hon. and learned Gentleman, the Member for Exeter (Sir William Follett.) The observations made by each of them were very voluminous, and I shall therefore content myself upon the present occasion, by merely stating the substance of them. It was stated, that the Governor-general in council would have power with respect to certain permanent laws of the province, with respect to which the Legislative Assembly had a certain authority, but which were not necessary for the temporary purposes for which the Canada Act was introduced. Now, the language that was used by his noble Friend (Lord Stanley), with regard to the manner in which such laws would be propounded, was very remarkable. He said, it was all very well to talk of the council as a matter of courtesy, but that in reality everything rested with the governor, who was dictator. The noble Lord, who was a supporter of the bill, took this view of it, that the Governor in council was dictator, and that all laws would emanate from him. I dare say my noble Friend does not depart from that statement now; but it is rather inconsistent with the declaration now made, that it was supposed when the act passed, that the Special Council would be, in fact, an independant authority over which the Governor-general could exercise but a very limited influence. My noble Friend then mentioned some things over which he thought the Governor-general ought not to have authority—amongst these were the rights of the Roman Catholics, the protection of the Protestant Church, and the tenure of lands. The hon. and learned Member for Exeter, following the course of the noble Lord, stated likewise that he had a great objection to the Governor-general in Council having authority over these particular matters, and he mentioned, in addition, the Canada Tenures Act, and other subjects of local concern, stating very clearly why these, being matters of permanent interest, should not be brought within the scope of authority given, for temporary purposes, only, to the Governor-general in Council. He then stated that the question was not a question of local police, or affecting the affairs of the local government. My hon. Friend, the Under Secretary of State for the Colonies replied upon that remark in something like these terms:—

> "If this be your object, if you only want words to exclude the Governor-general in Council from interfering with such questions as the rights of Roman Catholics, the clergy reserves, the rights of tenure, and other local matters of that kind, I shall not object to them, because I do not conceive it essential to the restoration of subordination and obedience to the laws that the Governor-general should have authority over such matters."

I am perfectly certain that the hon. and learned Gentleman (Sir W. Follett), with the eminence which he possesses in every way, could never have made the statement which came from him upon that occasion if he had entertained in his mind a wish to prevent the Governor-general from passing acts affecting the security of the province. If he had wished or intended to say that the whole course of the criminal law should be unaltered, and that the Governor-general should have no such power as that proposed to be conferred upon him by the bill, he would have stated his views distinctly and clearly to the House, and would have asked the House either to agree to his proposition, or to express a decided dissent from it. But the hon. and learned Gentleman could have meant no such thing—at all events, the Government never could have supposed that he meant any such thing. Our attention had been called to the hon. Member for Westminster, who opposed the bill altogether, and also to the amendments of the right hon. Baronet the Member for Tamworth, who agreed to the general purpose of the bill; but with respect to the amendment of the hon. and learned Gentleman it only appeared to us to provide against that for which it was not necessary to make any provision at all. It seemed to us, therefore, as far as principle went, not to be a material amendment, and consequently no objection was made to the introduction of the words proposed. But supposing that these words and the interpretation put upon them were totally contrary to the whole meaning of the act— supposing that they could not bear the interpretation which I put upon the whole act—was there any thing transpired in the Committee in this House that could induce us to say, that notwithstanding the general purport of the act, there was still this limitation reserved, depriving the act of all its force. And let it be remembered that, after this amendment was introduced, we were still reproached with being guilty of an act of despotism. We admitted that reproach. We did not say, that it was an act of peculiar mildness, intended to provide only for mere matters of local police, in conformity with the laws of England. On the contrary, we admitted that it was an act despotic in its form, but necessary for the safety and security of the province. I, therefore, cannot think that anything that passed in this House can induce any body to suppose that there is in the ordinance of the Earl of Durham, anything contrary to the powers intended by the Canada Act to be confided to him as Governor-general. The bill went into the other House, and in one of the debates which took place upon it there, I find my noble Friend the Secretary for the Colonies said, "It is, undoubtedly, my Lords, a measure of severity—it is an arbitrary measure; but I submit it is a measure which is absolutely necessary under the existing circumstances." Now, if it had been our intention to obtain a measure merely to deprive the local legislature of Lower Canada of the power enjoyed by the legislature of the upper province, would this have been the description—the disadvantageous description which the Secretary for the Colonies would have given of it? I can imagine a Minister saying that a measure which he proposed was a lenient and mild one, when in fact it was an arbitrary one; but that a Minister should come forward and say that his measure was an arbitrary and despotic one, when in fact it was neither despotic nor arbitrary, would have been to invite reproach without being liable to it, and could hardly have entered into the mind of any person holding authority under the Crown. But there were others who described this measure, after it had passed through the House of Lords, and after it had received the amendment of the hon. and learned Member for Exeter, in protests now upon the journals of the House of Lords. These are not mere fugitive words that escaped in the heat of debate, but words carefully selected by eminent persons in the House of Lords to express, in the clearest and most intelligible manner, their deliberate opinions of the nature of the measure which they were called upon to pass. This, then, is the description of the measure given by two noble Lords who entered protests against it upon the journals of the other House:—

> "Because the events which have taken place on the frontier of the United States show the expediency of effecting, at the earliest period, a permanent, and therefore a conciliatory settlement of all questions relating to Lower Canada, and the bill interposes a long interval of despotism before any proposition for such settlement can be entertained."

The 9th reason was—

> "Because the bill thus postpones the calling of a new Parliament to a period necessarily more unfavourable than the present, and, occupying the interval by a coercive despotism, tends at once to alienate the affections of the people of Lower Canada, to engage the sympathy of the people of the United States in their favour, and to bring upon this country the accumulated evils of civil and of foreign war.

That protest is signed with the names of Ellenborough and Brougham. There is another protest which contains this reason —"Because this measure deprives the people of Lower Canada, not only of the rights which were given them by the British Legislature, but of the rest of the constitution which they have previously enjoyed." That is signed by Fitzwilliam and Brougham. Now, with those reasons given, when the bill passed through the House of Lords, I am quite sure that if any one were to venture to say, that the bill preserved to the people of Canada the rights given to them by the British Legislature, Lord Brougham, who entered that protest, must be the first to set such person right in the fact, by telling him that the measure was in its nature coercive, that it was an act of despotism, and was one which deprived the people of Lower Canada of their constitutional rights. Such, then, was the character of the Act when it passed through both Houses of Parliament, such the nature and general purport of the Act, such the declared intentions of its proposers, and such was the character given to it by its opponents, after due deliberation. When the bill went out to Canada, the powers under it were in the first place intrusted to Sir John Colborne, and with respect to those powers a question was asked of me in this House whether it was intended to confer the powers of the bill upon Sir John Colborne, or to wait till the Earl of Durham arrived in the colony. I, foreseeing the necessity that there might be to provide for the safety of the province by measures of a rigorous and unconstitutional character against the dangers which might occur there, gave this answer:

> "There might be many measures which it would be necessary to take at once, in order to secure the peace of the province, and which might render it inexpedient to delay the exercise by the Lieutenant-governor of the powers with which he would be invested till the arrival of Lord Durham."

That answer again clearly shows that there was something more in the powers to be given to the Earl of Durham than was intrusted to Sir John Colborne. But the sense of this Act may likewise be gathered from the conduct pursued by Sir John Colborne, such conduct having been known to Parliament during many weeks, and having been acquiesced in by them. Sir John Colborne, in his dispatch of the 7th of May, 1838, sent home various ordinances, of which he merely gives a list. He does not give an account of what occurred in the Special Council, or how certain persons voted. Among those ordinances there was one—

> "To enable the governor or person administering the government of the province of Lower Canada to extend a conditional pardon, in certain cases, to persons who had been concerned in the late insurrection."

There was another ordinance—

> "To provide for the more speedy attainder of persons indicted for high treason who had fled from the province, or remained concealed therein to escape from justice,"

There was also another ordinance—

> "For preventing mischiefs arising from the printing and publishing newspapers, pamphlets, and papers of a like nature by persons not known, and for other purposes."

Now, I think it can hardly be said by anybody, these ordinances having been sent from Canada, and presented some weeks afterwards to this House, that Parliament is not cognisant of the steps taken by Sir John Colborne in pursuance of the powers vested in him. It cannot be said, I think, that he was proceeding according to the ordinary mode of the criminal law of this country. It can hardly be maintained, that what he did did not affect in any way any Act published by the United Parliament. And yet, as a question of law, if that which I consider to be an absurd and extravagant meaning were to be attached to the Canadian Act of this Session, namely, that it was not to affect the criminal law in any respect, these Acts of Sir John Colborne ought to have been called in question, and, no doubt, we should have been told, that we had totally mistaken the meaning of that Act, and that Sir John Colborne had mistaken his authority in this particular. In the first of these ordinances Sir John Colborne says,

> "It shall and may be lawful for the Governor or person administering the government of the said province to grant, if it shall seem fit, a pardon to such person who, before arraignment, shall have prayed pardon for his offence, upon such terms and conditions as may appear proper, which pardon shall have the same effect as an attainder of the person therein named for the crime of high treason."

[Lord *Stanley*: "So far as regards his estate and property, real and personal."] Yes; it certainly does not mean so far as regards the forfeiture of his life; for it relates to persons who apply for pardon, that pardon, in the case of high treason, being of itself a sufficient declaration that a forfeiture of life was not intended. But it goes on further, and says,

> "Be it further ordained and enacted, by the authority aforesaid, that in case any person shall be pardoned under this ordinance, upon condition of being transported, or of banishing himself from this province, either for life or for any terms of years, such person, if he shall afterwards voluntarily return to this province, without lawful excuse, contrary to the condition of his pardon, shall be deemed guilty of felony, and shall suffer death, as in cases of felony."

Now, here is a special provision, no doubt exceedingly proper and necessary, considering the difficult circumstances in which Canada was placed, and as contrary to the usual mode of proceeding with respect to persons ordinarily charged with crime as anything can be. Then, in the ordinance providing for the more speedy attainder of persons indicted for high treason, who have fled from the province or remain concealed therein to escape from justice, it is said,

> "That in case any indictment shall be found by a grand jury, at and before any court of competent jurisdiction in the said province, then proclamation shall be made for those persons to surrender,"

And that if they do not surrender within a certain day,

> "They shall stand and be adjudged attainted of the crime expressed and set forth in such indictment, and shall suffer and forfeit as a person attainted of such crime ought to suffer and forfeit by and according to the laws of this province."

Now, Sir, I am not arguing the question, whether or not these ordinances of Sir John Colborne justify or do not justify the ordinance which is now in question issued by the Earl of Durham. The question that I am putting to this House is, whether it is conceivable—Sir John Colborne having thus used his authority, and these papers having been presented to Parliament—that any one entertained the supposition that these ordinances were totally contrary to the Act of Parliament passed this Session—that Sir John Colborne, in issuing those ordinances, had violated the law, and that he would either be liable to a prosecution or require an indemnity for publishing such ordinances? Such, at least, was not the opinion of Government. They conceived that Sir John Colborne was acting within the intention and spirit of that Act of Parliament; that he was providing for this extraordinary occasion in a manner in which he was justified; acting according to the best of his judgment, though acting with severity, perhaps, against persons who were suspected of high treason and who had fled the province; but, at the same time, acting with great mercy towards those who were already in prison, and who might afterwards confess themselves guilty. But this, at least, is apparent, that it is hardly possible that there should have been an Act of Parliament brought in with such a purpose; that there should have been words introduced to which no one paid much attention; that the Governor should have acted in conformity with the original intention and purport of the act, and yet that there should be a vice in that act which rendered null and illegal the whole of his proceedings; and that that vice never should have been discovered until the Earl of Durham issued this ordinance. I must say, that I believe that if such an opinion were given as to any vice in the act, and as to the time of making the discovery, the interpretation of it would be, that it was not because the Earl of Durham had acted illegally, but that because Sir John Colborne was a person not obnoxious to political animosity, and because he was not connected with any political party, whereas the Earl of Durham was so connected, that that vice which was so harmlessly existing while Sir John Colborne was acting in this manner was reserved to be directed against the head of the Earl of Durham. Such, then, have been the proceedings adopted by Sir John Colborne under this act. When the Earl of Durham arrived in Lower Canada, however, the difficulties in that colony still remained. He has issued a certain other ordinance, and I submit, that although that portion of his ordinance which regards the Bermudas cannot be justified by law, and therefore the whole of the ordinance cannot be justified by law, yet, if those ordinances of Sir John Colborne were according to the act, that what has been done by the Earl of Durham is within the meaning and intention of that act. I therefore say, that I am ready to maintain, at whatever risk we may incur of a determination by Parliament hereafter, that these were powers intended to be given by Parliament; that they were powers required by the necessity of the occasion; that they were powers, if you will, despotic and arbitrary, but that the necessity of the occasion justified them; that, after Parliament had enacted them, Sir John Colborne rightfully, and harmfully, put them in force; and that the same powers and the same law which justified Sir John Colborne in so acting, justified the Earl of Durham, so far as the law is concerned, with respect to these proceedings. I have entered into this argument because I think it necessary to declare what is our interpretation, what is our opinion of the law, and also because I think it necessary at this moment to let all those who may be concerned in Canadian affairs know, that at whatever peril, the Government will meet conspiracies and insurrections the which I fear may have received some encouragement from what has lately passed. But, Sir, nothing which has passed shall induce me, however unfavourable circumstances may be, to shrink from the duty which I think is imposed upon us. If there could have been at this time a full meeting of Parliament obtained, I should have thought it right to ask that all doubt should be cleared up as to the power—whether it be great or whether it be small, which is to be given to the legislature in Canada; and that that power should be clearly acknowledged by Parliament, in order that we might have some certain rule to go by, and that we might be sure we were acting according to the intentions and views of Parliament. But I find in the present state of the House, at the present late period of the Session, and with the little likelihood that the two Houses would agree, that it is necessary that we should undertake the risk of acting upon such interpretation as we can ourselves put upon the law. I feel no doubt that the responsibility is great; no doubt the Earl of Durham will feel that the responsibility is not only great but painful; but I do trust that, supported as I hope he will be, by the general concurrence of the province of Canada, that, supported as I think he may expect to be by Parliament, he will consider that he is bound to give to his country his services unmindful of the obloquy, and unmindful of the attacks which may attend his course. It is certainly different treatment from what he had a right to expect. He was sensible, no man could be more so, when he undertook this duty, of the risks with which he undertook it, and of the perilous nature of the difficulties attending the Government in Canada. He did not conceal from the Government nor from the public in general his opinions of the arduous nature of that duty. Why, I know full well that, in the presence of those who are politically opposed to him, he stated that he trusted to their generous forbearance when his conduct should come to be judged of in this country. I do, therefore, think that it would have been but fair for those persons to have said to him—if it was their intention not to act in the spirit of that appeal—"This is an act of despotism; this is an act giving extraordinary powers; it is incumbent upon Parliament to watch every step; to judge with jealousy, to judge with harshness, rather than allow a single syllable of the law to be infringed upon." I say, if such were the intention of any party, it would have been but just and fair for that party to have declared it. But such was not the conduct pursued, and I have no doubt that the Earl of Durham has framed this ordinance in the full confidence and belief that the difficulties he had to encounter would be appreciated, and that his measures would be indulgently viewed by those who might receive intelligence of them here. For my part, I have stated to you how far I think the Earl of Durham is justified by law. I will not enter into the subject whether that ordinance is different in principle—whether it does not go beyond an act of attainder and other acts of a severe kind which have been passed in this country,and which have been passed in Ireland, upon occasions of a like nature. I will not now discuss that topic. I do not discuss it chiefly because I am not fully aware of the reasons which influenced the Earl of Durham to issue that ordinance in the manner in which it has been issued. I am aware that the question was a most difficult one with regard both to those who were confined for treason and those who had fled from the province. With regard to those who were confined from the first moment in the time of Lord Gosford, and those who were afterwards confined in the time of Sir John Colborne, a question arose which was much considered both in Canada and in this country. It would have been possible to have acted with great severity, and yet to have kept within the letter of the law. It would have been possible to have defied the most casuistic lawyer to have found a blot in the proceedings of the Governor-general, and yet to have acted with great severity. I will state how that might have been done. The law with regard to juries, had undergone a change within the last few years; but that law expired a year or two ago. That law having expired, it would have been possible, according to the strict letter of the law, to have summoned a jury, which would have chiefly consisted, not of the general inhabitants of the province of Montreal, but of those who had been engaged in hostility against the insurgents, and who were most inflamed with feelings of revenge and animosity against them. It would have been possible to have summoned such a jury, and it can not be doubted, on one clear act of rebellion being proved against persons who had been seen in arms, that many of those persons would have been convicted. What, then, was to forbid a person of a sanguinary disposition from acting upon those verdicts, and executing a capital punishment upon those persons? And yet, I do say, that, although by such conduct, by summoning such a jury, which could not have been impugned, except upon those large grounds of general justice and equity, which ought always to be regarded, any persons had been condemned to death, and had lost their lives, that although no lawyer could have found a flaw, that although it would have been impossible to say, that the letter of the law did not bear out the Earl of Durham, still I should have felt less able at that moment to have defended the conduct of that noble Earl than I do now when I know that in spite of illegality, in spite of informality in spite of the violation of principle, if you will, he has taken a course which—while it has been looked upon by the British inhabitants in Lower Canada as one of a mistaken and of an over-generous lenity, and not as one, as I think, of a wise and statesmanlike policy—has reconciled the ways of mercy with that which was due to the safety of the province, and to the interests of her Majesty's faithful subjects there. With this impression on my mind, therefore, I ask you at once to pass this bill of indemnity, limited as it is; but telling you, at the same time, that when the time comes, I shall be prepared, not indeed to say, that the terms or words of the ordinances passed by the Earl of Durham, are altogether to be justified—and not that I think it a light matter, as the hon. Member for Westminster supposed, that persons not arraigned or summoned to answer for the offences of which they are charged, should be punished if found within the province—but I shall be prepared to say, that looking at the conduct of the Earl of Durham as a whole, —that believing him to be animated by the deepest zeal for the welfare of this country,—that believing him likewise to have wished to avoid anything which could be construed into an act of unnecessary severity,—that believing these things, I shall be ready to take part with him. I shall be ready to bear my share of any responsibility which is to be incurred in these difficult circumstances. And I do say, that if the province of Lower Canada is preserved to this country—that if, the insurrection being suppressed, the punishment of death can be altogether avoided in practice, and that if we shall be able to restore to that province the enjoyment of a free constitution, I do think that no invective—that no sophistry—that no accumulation of circumstances—that no bitterness of sarcasm, accompanied by professions of friendship, and thereby attempting to disguise, but not in fact disguising, the petty and personal feelings which are at the bottom of all these attacks, will in the least degree affect the noble

Earl against whom they have been levelled, but that he will have deserved well of his country, well of his Sovereign, and well of posterity.

Lord *Stanley* said, that he never addressed himself with more unwillingness to the consideration of any political question in his life than he did to the present question, not only because he felt all the difficulty of contending against that indifference and apathy which, at this period of the Session—exhausted as Members must be with their long-protracted attendance—which necessarily crept upon the House, even amidst discussions the most exciting, and upon principles the most important, but also because he could not feel that, treat this question as they might, deal with it as they pleased, its agitation, its discussion, must almost inevitably lead to consequences prejudicial to the maintenance of authority in Canada. The noble Lord, in the commencement of his speech, gave credit to the House for the forbearance, which throughout the long-protracted Session, they had exercised towards her Majesty's Ministers, and towards the Earl of Durham, upon the subject of Canadian affairs; but, towards the conclusion of the noble Lord's speech, he seemed to intimate that the Earl of Durham had a right to have expected more forbearance than he had met with. [Lord *John Russell:* Not in this House.] No; he was quite aware of that; it was difficult to mistake the person to whom the allusions made by the noble Lord, were directed. But when the House of Lords had sanctioned by their proceedings the declaration which was now forced upon them, it was but just, even though the noble Lord found fault with any individual whom he might think had put himself unnecessarily forward in this matter, that it should be clearly and distinctly understood, that against the great body of the noble Lord's political opponents, he brought no charge of a want of forbearance, or a want of conciliation. At the same time he did not pretend to say, that the person alluded to, was to be blamed who, from whatever motive, or upon whatever grounds, seeing as he believed a gross infraction of a constitutional principle—seeing an act arbitrary and despotic in its nature at best carried to an extent and pushed to a degree of confessed illegality beyond that which Parliament could ever intend, or which any branch of the Legislature could ever have contemplated—he would say, that that Member of Parliament, were he of the one House or the other, was not liable to the noble Lord's censure, at the close of the Session, because he interposed to give a legal effect to an illegal document, and to lay before them the difficulties and dangers into which the Government and the Earl of Durham had plunged. He regretted, that this discussion had been forced upon them, but forced upon them as it had been, and the noble Lord undertaking to vindicate this most extraordinary ordinance, and compelling them to discuss the merits of it in all its provisions, he would not hesitate or shrink from expressing his own sense and belief of the unconstitutional nature, if not the absolute illegality, of this ordinance in all its parts. That part of the ordinance which referred to the transportation of persons to the Bermudas, might be dismissed from all discussion, the noble Lord having admitted that it was illegal, and that an act of indemnity was required for all persons who had acted or should act under it. But what was the remainder of this extraordinary ordinance? Did he question the motives of the Earl of Durham? Not at all. He believed, that the Earl of Durham took the course which he believed to be most consistent with humanity and with the interests of the province, and that his desire was to save the effusion of blood, by preventing the possibility of those persons coming within the province. But, giving the Earl of Durham credit for these motives, he could not give his consent to the propriety or to the legality of the course pursued to carry those motives into effect. This ordinance applied to two classes of individuals—one class were those who had confessed their guilt, and had submitted themselves to the authority of the law; the other class were those who were not within the authority, nor within the reach of the law of the country, nor indeed within the limits that were under the authority, of the Earl of Durham. Upon both these classes, the Earl of Durham passed alike this sentence—upon the one class who confessed their guilt, that if they should venture to return, and upon the other class, who had not had their trial, and who could not take it because not within the province, that if they entered the province, even though for the purpose of obtaining a trial, they should be adjudged guilty, and be subject to the penalty of death. The noble Lord, in the latter part of his speech, most unnecessarily, as he thought, and most unwisely, as he was convinced, endeavoured to draw an invidious distinction between the conduct of Sir John Colborne and the Earl of Durham.—[Lord *John Russell:* Not at all.] The noble Lord made a comparison between the conduct pursued by Lord Durham and Sir John Colborne—["*No, no!*"] The noble Lord stated, that ordinances had been passed by Sir John Colborne, he being a person not obnoxious to any political animosities, and that if flaws there were, they were not discovered in those ordinances until the same course came to be pursued by the Earl of Durham. Now, he was not called upon to express an opinion, and he did not express any opinion—he was very incompetent to do so, and would therefore leave it to those who had more skill in legal questions—as to the legality or illegality of the ordinances of Sir John Colborne. But this he would say, that between the ordinances of Sir John Colborne and the ordinance of the Earl of Durham, there was a broad, plain, palpable, and manifest distinction. He should, by and by, venture to turn to the intention and effect of that portion of the act which restrained the Governor-general, were he Sir John Colborne or the Earl of Durham, from interfering with, altering, or suspending, any act of the Imperial Parliament, or any act that might have been passed by the colonial Legislature, repealing or amending any act of the Imperial Parliament. But he was not now dealing with the technical point, as to whether the colonial Legislature had the power, or the Governor-general had the power, either to pass an act of attainder, or alter in any respect the criminal law of the province. Without expressing any opinion as to the legality or illegality of either Sir John Colborne's or Lord Durham's ordinances, yet placed as the two had been by the noble Lord in juxta position, he must say, that being called upon to institute a comparison between the two ordinances, the whole course of Sir John Colborne's conduct in the administration of the same extensive and arbitrary powers, was entirely, and in all respects, very different from that of his successor. When Sir John Colborne undertook the administration of the colony under this act it was very difficult to form a council of persons possessed of local knowledge and well acquainted with the interests of the colony, and who had not been implicated in dissensions which had so long disturbed the province, but Sir John Colborne had not found that difficulty wholly insurmountable; he was not content to keep the number of his council within the narrow limit, if not below the limit prescribed by the government act; he had not selected a body of five persons but of twenty-one persons. He did not confine himself o a council in which there was but one civilian, and not one previously conversant with the affairs of the colony; but he selected his council from the great body of the permanent residents in the colony, and nominated in it, a majority of the French Canadian inhabitants; he did much to reconcile the people of the province to the arbitrary powers confided to him by the selection which he made, and by showing that he was not jealous of selecting persons having an interest in the province. Lord Durham had pursued a different course, and he doubted whether he had adopted one equally wise; he doubted whether, if Lord Durham had been surrounded by persons more conversant with the laws and practice of the colony, instead of having in his council only one person with a knowledge of the law, he would have passed the ordinance which had brought the British House of Commons, and the British Parliament, as well as the people of Canada to their present situation. With regard to the ordinances which Sir John Colborne had passed, two had been adverted to by the noble Lord; one was in the nature of an act of attainder, and the other was, "to enable the governor, or person administering the government of the province, to extend a conditional pardon, in certain cases, to persons who had been concerned in the late insurrection;" and let him call the attention of the House to the great difference between the acts of the two governors, as they bore upon constitutional rights connected with the administration of criminal justice. It was a necessity of the criminal code of England and it was so interwoven with it that it was impossible to separate it from the criminal law, or the criminal law from it, that it was the right of every subject to be tried by a jury; this was a necessary incident to the English law, and it was introduced by a British Act of Parliament into Canada; and he for one, speaking as a layman, and not as a lawyer, had great doubts whether it was competent for the Legislature, in the exercise of its ordinary jurisdiction, so far to depart from the criminal law of England, as to abrogate in the colony, the trial by jury; and if the Canadian legislature had no such right, it followed *a fortiori* that Lord Durham had no such right; but independently of the provision introduced into the bill by his hon. and learned Friend (Sir William Follett) which debarred Lord Durham from making amendments in certain statutes in force in Canada, by the noble Lord's (Lord John Russell's) own restriction it was not competent for the Governor-general to pass any act of legislation which could not have been passed by the colonial legislature. Now, he thought that it would not be contended by any one that the ordinance of Lord Durham had not, so far as regarded some individuals, set aside their right to be tried by a jury. Did the ordinance of Sir John Colborne go that length? An act of attainder, was an act which was perfectly known, and was familiar to the criminal law. He did not debate the right to dispense with the trial by jury, so far as those who had submitted themselves without trial to the Governor on certain terms, were concerned. But as to an act of attainder of the others. On an attainder a bill was found against a person by the tribunal— which in the first instance, according to the criminal law of England, was to take a step—a bill was found by the grand jury, and if the party accused did not forthwith come and surrender himself, time was given for three or six months for him to do so; he was not called upon to appear before any new or extraordinary tribunal, he was not forced before any tribunal of which he might be jealous, but he had a right to look to the ordinary tribunal, and to appeal to a jury of his country; failing in this, if the party did not surrender and take his trial, the proceeding was something after the nature of an outlawry, judgment was allowed to go by default, and sentence was then passed against the defendant. Now, was that the course pursued by Lord Durham? No such thing. Was his course like that of Sir John Colborne in the two ordinances which had been referred to? In them it was only enacted, that "in case any person should be pardoned under the ordinance, upon condition of being transported, or of banishing himself from the province, such person, if he should afterwards voluntarily return to the province without lawful excuse, shall be deemed guilty of felony, and shall suffer death as a felon." Thus a person in one instance had confessed the guilt, and had accepted a pardon upon certain conditions, and as, till lately was the ordinary law of England, with respect to a returned convict, he might be liable to death. Such were the two previous ordinances of Sir John Colborne; and as to the eight persons transported to the Bermudas, it was true that the ordinance of Lord Durham bore some analogy to the previous one of Sir John Colborne; but as to the others, what analogy could they find there? What analogy was there to the attainder of Sir John Colborne and his conduct with respect to the pardon of persons who were assenting parties to the banishment? What analogy did they find between this, and the ordinance against persons who were not at the time in the colony, and who, if they did come home to demand a trial, would not have an opportunity of obtaining the same—who had not applied for a pardon on any condition, but who, if they did come back for the purpose of demanding a trial, that single act was to be construed into an act of treason? This was the creation of a new variety of treason which was against all constitutional acts, and the parties were to be deemed guilty of treason for no other act than that of claiming to be tried. He knew not whether this were a legal act or not, but that the noble Lord should stand up and attempt to defend the constitutional character and justice of such an ordinance he would not have believed if he had not heard it. He would pass by the restraints which were put upon the Governor-general by the act in its passage through that House, but he must recal the attention of the House to the steps which were taken on that measure. Early after the recess the noble Lord had come down to the House and said, that such was the actual state of Canada, and such was the actual revolt into which the province was plunged, that it was necessary by an address to her Majesty to support the majesty and dignity of the Crown. Did the noble Lord find on either side a reluctance to assent to this address? Was not the address carried, if not unanimously, at least nearly unanimously; and was it not supported by all parties of the most opposite principles who stated, that they would not then investigate the merits or the demerits of the Government, or cause any dissension in, but would combine to support, the Government? They did not then, for one moment, hesitate to support it. But the noble Lord said, that he had a further object in view, and that he required an act for the better government of Canada. But what were the grounds or the necessity for that measure which was stated? The noble Lord did not tell them that he intended to institute an absolute despotism; he did not say, that he intended, with the Legislature to suspend the constitutional rights of the Canadians—to supersede the ordinary tribunals; no such thing. The noble Lord only said, that the Legislature of Canada had abrogated its functions, and that it was necessary to provide some measures *ad interim* to prevent any confusion which might arise by the lapse from the expiration of laws, to obtain the annual supplies, and in fact to provide for the continuance of the ordinary course of legislation in consequence of the local Legislature having abandoned its functions. Did the noble Lord doubt, that such language was held? Why, his hon. Friend, the Under-secretary of State for the Colonies, in the debate on Monday, the 22nd of January, had expressly said,—

> "By these acts, or rather this neglect, the Canadian constitution was practically suspended, although it would only be so in reality by the act which was then proposed; an act which, in fact, was only to supply the wants created by the refusal of the Assembly to pass those legislative measures, which the interest of the province demanded, and to provide for the wants of the colony, during the interval which must elapse before an Assembly could be called together."

Good God! if the hon. Gentleman had meant to overthrow the constitution, to provide for the repeal of all laws, to abrogate the whole criminal law, and substitute ordinances for the usual tribunals, would he have come down and asked only for a bill to provide during the interval for the carrying on the Government? Yes, the hon. Gentleman had not only said this, but he continued:—

> The Government had placed confidence in the representations which had been made to them, that if the Canadians were intrusted with a control over their expenditure there would be but little difficulty in managing the affairs of the colony; but when the Assembly met they carried not one legislative act. They met to remonstrate, not to legislate; they saw all the acts which required to be re-enacted expiring, and all this they allowed to pass without the slightest attempt to prevent the injustice which would accrue to the public and to individuals without any provision for the manifold interests which required their protection, and which were placed in their hands by the act of 1791; and the House was then called upon, after the greatest forbearance had been carried to the fullest extent by the bill then before them, to remedy these inconveniences."

And, in a subsequent part of the same speech, the hon. Gentleman said,—

> "The Government was bound to provide the means by which a temporary substitution could be made for the discharge of the functions which had been abrogated by the Legislative Assembly, and to provide for the necessities of a colony left without a legislature."

And, if it had been the intention of the Government to have gone further, why did they not come down and state broadly and distinctly their desires? He could not say what course Parliament would have pursued, but if the necessity had been shown, he, for one, would have given all the assistance in his power for the purpose of having substantial justice administered. The noble Lord had said, that he had designated the Governor-general of Canada as a dictator; and so he had, for as the Council was to be composed of such persons as he pleased to select, although he (Lord Stanley) confessed, that he certainly had had no idea that it would have been constituted as it had been, yet so long as he enjoyed the whole power of nomination, and could remove any person who displeased him, his rule must of necessity be a dictatorship. The noble Lord had also said, that in framing the amendments they had not looked to their application to the criminal law. This was true; they did not look at that time to the case of the courts of justice; they did not look to legislative powers possessed by the local Legislature which they thought, that it was not safe for an individual to possess; they did require, that the Governor should not interfere with the religious property, whether Catholic or Protestant, nor with the act regulating the tenure of lands and other such objects; but undoubtedly they did not contemplate the restraining the Governor-general in his power over the ordinary courts of justice, because the noble Lord up to that period had never intimated any intention to interfere with the ordinary tribunals, because they could not believe that it was the intention of Lord Durham to do so, and because they could not believe, that if the temporary council should interfere with the ordinary administration of justice, the Crown would allow such an ordinance as this to be passed. The noble Lord said, that there was no necessity for such an interference. Was he prepared to say so now? He would ask him, was it necessary for Government to have greater powers conferred upon it? Let the noble Lord prove that; and let him come forward now, late as it was in the Session, he would say, that not one hour ought to be lost without their being given, and that the House ought not to be prorogued until they were conferred. But Lord Durham did not appear to have entertained any apprehension of the impossibility of carrying the law into effect in its ordinary course, even with regard to those persons who were to be tried for treasonable offences; because, in the first dispatch which he sent to this country, he expressed the very great satisfaction which he had experienced since he had appointed the special commission for the trial of the prisoners, and since he had sent the Attorney-general to Montreal for the purpose of conducting the prosecution. The noble Lord said, that Lord Durham must have kept within the rule of law, and must have permitted himself to be governed by the regular course to enable him safely to have prosecuted the prisoners to conviction. But this was a matter which he thought the noble Lord had pressed into his service in support of his arguments, and he did not think, that Lord Durham had really acted as it was supposed. When that noble Earl sent down the commission, was it his intention to act as it was alleged? Did he know that the conviction of the offenders at Montreal was impossible, and did the persons charged know it? So far from it, the persons who were so charged pleaded guilty, and submitted themselves to the mercy of the Crown, and he presumed to suppose, that if they had not done so they would have been liable to conviction at the hands of the jury. He doubted very much whether Lord Durham had not incorrectly expressed himself with regard to the real facts of the case in saying, that the parties had pleaded guilty at all, because, he believed, that not one of them had done so. But this did not affect his argument. Lord Durham sent the commission, and those who did not plead guilty formally threw themselves on the mercy of the Crown for fear of conviction. He must say, however, that it was singular that in the first dispatch sent by Lord Durham, that noble Lord said, that he had had great success, because he had induced the ringleaders to plead guilty, when that was not the fact. Then the noble Lord opposite said, that it never could be supposed that Parliament did not mean to confer this power of turning upside down the whole of the judicial system of the colony, and he said, that it never would have been doubted that such was their intention, and that, if such a power had not been conferred, no Member of either House of Parliament could have characterised this measure as arbitrary and despotic; and he quoted the two protests of noble Lords in the other House of Parliament in reference to the matter. Why, this was a strange avowal to be made by a liberal Minister of the Crown. That an Act might be passed affecting the whole system of the colony, giving the power to a council to pass new laws and amend old ones, to levy taxes without the consent of any one human being interested in the colony, and yet that that Act was not arbitrary, because the courts of justice were left the same as they formerly were; but even more, that although the constitution was put an end to, and destroyed, and trodden under foot, yet, if the law in that respect remained as before, the noble Lord said, that no Member of either House of Parliament could characterise the measure by which this change was procured as arbitrary or despotic. The noble Lord had expressed a conviction, that there would not be any opposition to the passing of this Act. He thought he might venture to assure him, that on that side of the House he would meet with none. He believed that Lord Durham, acting as he did, acted illegally, both in reference to the point to which allusion had already been made, and which the noble Lord opposite seemed to admit, and, with respect to the rest of the ordinances, which having been disallowed, it was not necessary to question now; but, at the same time, he must say, that he believed that his conduct proceeded from a sense of duty, and that if the steps which he recommended could have been taken legally, they would have tended much to the promotion of tranquillity in the province. He admitted this frankly and freely, and he was not one to refuse Lord Durham an Act of indemnity for having from humane motives transgressed the extensive powers given to him, but he did say, that it was a very serious question for the noble Lord and the Government to consider what would be the result of the passing of this bill disallowing the ordinances which Lord Durham had published. They could not place matters on that footing on which they would have stood if those ordinances had not passed. The evils had been done, but it was the duty of the Government to suffer no consideration to interfere between them and the passing of such a measure as would place the laws of Canada on a footing of certainty as to what was to be done. He would call the attention of the noble Lord to the cases of those persons who being subject to the provisions of these disallowed ordinances had been transported to the Bermudas, and of those who were absent from the colony. What was to be the condition in which they were to be placed? In the anticipation that these ordinances would not be disallowed, and that no difficulty would arise, Lord Durham had undertaken to issue a proclamation, by which he declared, that no steps would be taken against any persons for high treason or treasonable offences in the colony, and the proclamation granted a general amnesty to all except those who had been specified. Now, it was a very serious question for Government and for Parliament to consider what were the legal consequences arising from the disallowance of the ordinances? Were these persons to be altogether exempted from all further proceedings—were they to be free from all trial, or any question at law—were they not only to be free from the arbitrary sentence of immediate death without trial provided by Lord Durham in certain cases, or were they to be free from the ordinary proceedings in the common course of law? It was a subject too serious for him to offer any opinion upon; but if any doubt existed on the point whether these persons who were the ringleaders in the late revolt, who had on their heads the guilt which had been incurred, and the blood which had been shed, and the misery which had been produced to their unhappy countrymen—who, by their unlawful exertions, had plunged their country into misery and wretchedness, and had exposed themselves and their fellows to loss of property and bloodshed, and to danger of death—should escape; if by any neglect or informality on the part of the Governor, of any want of caution on the part of Lord Durham, it was rendered necessary to indemnify him, and also to disallow the ordinances which he had published, he said the result would be, that these persons would so escape from all punishment in respect of the atrocious crimes of which they had been guilty, that it was a case in which it was the duty of Parliament to interpose, and to give their own sanction to such a law as would place them in such a position as that in which they should properly stand. It was not only improper, that they should have any doubt as to whether the Governor had the power to suspend the Habeas Corpus Act, not only was it absolutely necessary, that nothing relating to this matter should be left in doubt, but it was absolutely necessary, that it should not be left in doubt whether these persons were or were not to escape scot free from the consequences of the rebellion of which they were the ringleaders. Now, notwithstanding the protracted length of the Session, at this time it was the duty of the House to pass such an Act as would remove all doubts upon the subject forthwith. He knew not what private means of information the noble Lord opposite might have as to what might be the fate of such a measure, in the event of its being taken into the other House of Parliament, or with what success a clause to this effect might be introduced into the present bill, but he was sure that the noble Lord had no ground for anticipating that if he came down to the House and said, that the ordinary powers of Government in Canada were insufficient, and that they required amendment, that even if that were stated now, and the Government were to ask for an Act declaring or confirming or extending any law if necessary, there would be any opposition offered to such a measure either here or in the House of Lords. He was convinced there would be no difficulty in procuring such a bill to be carried. Parliament had, on many occasions, been specially called together on measures of equal or even less importance. It was no answer in such a case, that Members were wearied with long attendance, and that many of them had left town. If it were necessary, let there be a call of the House, but let not the opportunity pass for relieving the Government of Canada of all doubt. Let not the noble Lord take any risk in respect to the certainty or uncertainty with regard to the present state of the law, and the present state of Canada. The noble Lord would of course exercise his discretion. They would give no opposition to him if he should pursue the course suggested, but he felt that he should not have discharged his duty as an independent Member of Parliament if he had not stated what he thought the Government ought to do, and he thought, that not one week ought to elapse, and Parliament ought not to be prorogued, until the law on this subject was rendered certain.

Lord *John Russell* said, that there were two points alluded to by the noble Lord, on which he felt himself bound to explain what he had stated to the House. The first was in reference to the ordinances of Sir John Colborne as compared with those of Lord Durham. Now, he never made any comparison between them whatever. What he said was, that if there was any decided objection against the ordinances of Lord Durham, on the ground of their illegality, there must also be as decided an objection to the legality of the two ordinances of Sir John Colborne. With regard to the other point on which the noble Lord had just touched, he desired again to state his feelings upon it, because it was most important. No doubt the matter with regard to the Habeas Corpus Act should be cleared up. Such was his opinion and the opinion of every one of those individuals with whom he had the honour to act; but in a conversation which he had had with the noble Viscount at the head of the Administration, in reference to words being prepared to meet the views suggested by the noble Lord opposite, he had understood him to say, that on his attempting to procure their explanation in the sense in which he understood them, and in which Parliament understood them in the House of Lords, he was obliged to withdraw the proposition he had made in obedience to the general wish of the House; and it was thought best, therefore, that the matter should be left in its present state. Having heard from the noble Viscount, therefore, that he was obliged to withdraw the proposition in the House of Lords, he felt that he should have no hope in the present state of Parliament to procure its final adoption. He had no doubt, that he should receive the assistance and support of the noble Lord opposite; but he felt convinced, that he would not be able to secure the doubts to be cleared up by any measure being passed through the other House of Parliament.

Mr. *Leader* said, the speech of the noble Lord, the Secretary for the Home Department, had been principally directed to the noble Lord opposite; but there were some points to which he felt it necessary that he should refer. As to the present attacks made by the noble Lord on a noble and learned Lord in another place, it was not for him to defend the noble and learned Lord. He was quite able to defend himself, and he had no doubt that he would have no difficulty in doing so; and that his defence would make the noble Lord regret that he ever made any attack upon him. The noble Lord said, that the acts of Sir John Colborne were not questioned. It was only a few weeks ago, that he had put some questions to him relating to those acts, and they were almost all met with indifference; and the noble Lord, when he was spoken to in relation to the subject, said that it was not the intention of the Government to introduce any bill of indemnity as regarded him. The present question before the House was, whether this bill should be allowed to pass; and although he had some objections to it, and was supported in the opinions which he entertained by those of several noble and learned Lords in the other House of Parliament, yet, as this House seemed to be disposed to sanction its passing into a law, he should acquiesce in the course proposed to be adopted, and should not oppose it, much as he thought that it ought to be thrown out, and that in lieu of it a vote of censure should be carried. The House, however, must not think that this was the only act of the Governor of Canada which was illegal, and he would show that it was only one of a series of uncertainties and illegalities perpetrated by him since his appointment. In January last, in *The London and Westminster Review*, an able article was published on the subject of Canada; it was produced by a man of the very highest intellectual attainments, and when he named the author, he thought this would be allowed. It was written by Mr. John Mill, who was as illustrious as his father had been, for the numerous articles he had published. The publication was widely circulated here, and yet, on its being reprinted in Canada, M. La Rock, who published it, was apprehended and imprisoned, and his types were seized, and they still remained in the possession of the Government. He would ask them why, if there was any thing seditious in the work, it was not prosecuted in this country, and why, as it was not so prosecuted, it was permitted that the parties who were guilty only of publishing a reprint of the work, should be subjected to such severe penalties? This, however, was not all. There were domiciliary visits. Drawers were broken open, and papers seized, even mercantile papers, in order to ground complaints and prosecutions against persons supposed to have been engaged in the insurrection. Acts were passed, prohibiting the introduction of certain American papers into Canada, and in fact, the expression of liberal opinion was entirely suppressed by the arbitrary power of the Governor. He passed by the declaration of martial law, and other proceedings which some had characterised as unjust; and he would come to the last act of publishing these ordinances of the 29th of June last; and he would remind the House, that the Special Council was appointed only on the 28th of the same month. The council consisted of five members, three of whom were the dependents of Lord Durham, at least his secretaries, and one of them, he believed, was his relation. There was, however, only one civilian in the council. One of the duties of the council was to inquire into all cases of persons charged with treason, which should be brought before them, and there were at that time between 300 and 400 cases of that description. Every one of them, however, must have been discussed in one day, for although the council was appointed only on the 28th, on the 29th the ordinance was published. But was this to be tolerated—this mockery of justice? Was it possible, that all these cases could be inquired into and decided upon in one day? And yet this was one of the irregularities connected with the ordinances. As to the ordinances themselves, there were two parts of them to be considered. The first, as to the transportation of certain persons to the Bermudas, was allowed on all hands to be illegal; and he could not but remark, that it was most singular, that Lord Durham should have introduced this system of punishment for political offences into Canada. But then it was said, that the Bermudas was not a penal settlement; but he asserted, that felons were sent there, and were kept there imprisoned, the islands being second only to Norfolk Island as a penal settlement. But why were these men thus banished? What was the excuse for it? It was given in a letter, quoted in *The Morning Chronicle,* written by Mr. Charles Buller. He said,

> "I enclose you our first great act—about the prisoners. It will appear to you horribly unconstitutional and despotic, but it is really mild. We put no one to death. Our transportation is, you will see, not to be penal, but merely accompanied by measures necessary for security. The rest are merely banished; we confiscate no property. We were obliged to include a great many in our provision, in conformity to a general rule laid down in each case, whom we do not wish and do not intend to treat so hardly. This is rather an advantage, as it will enable us immediately to bring the pardoning power into operation. We would not interfere with the ordinary tribunals or tamper with the juries. The legal guilt of these men was clear. From an ordinary jury, their certain acquittal was equally clear. These ignorant Canadians would have said either that their leaders in the revolt were right all along, or that the Government hed not dared to punish. The British party would have said, that our trial had been a mere mockery of justice, and that we had let their guilty enemies loose on them by a trick."

Such language would scarcely be expected from any man in reference to such a subject, and least of all, from a man in an official situation; and he thought every hon. Member would think it monstrous to be believed, that such should be employed. With regard to the allegation, that the prisoners had pleaded guilty, he must beg to deny the truth of it; and he thought he could show this from a document which he had in his possession, and which was addressed to Lord Durham. It was from Wolfred Nelson, and he said,

> "We have rebelled, my Lord, but do not let this expression frighten you, for it is not against the person of her Majesty, but against a bad colonial administration."

Was this their pleading guilty to a charge of high treason? He went on to say,

> "If the arrival of your Lordship had taken place sooner it would have been approved by

all Canadians, and if their efforts had made your mission necessary, they would have been glad to have thus caused the happiness of their country." * * "They never had had recourse to arms for the purpose of attack, and if they had ever used them it was only in their own defence."

This, then, was the only evidence which could be produced in support of the allegation that the prisoners had pleaded guilty. There was subsequently a passage introduced into the document in which some well-merited praise was bestowed on Lord Gosford for his conduct in the affair. He now came to their confession of guilt as it was called. It was to this effect —"We are anxious to avoid being brought before the tribunals of the country, as it is impossible for us to find an impartial tribunal, but from such we should have nothing to fear." It appeared this was the confession of guilt, but it appeared that these persons took a different view of the constitution of a jury from Mr. Charles Buller. They proceeded to state, that to tranquillise the feelings of a generous and confiding people they asked this, but for themselves they would not have insulted the noble Lord so much as to make such a request. They then proceeded to compliment Lord Durham, and said that they prayed God for the success of his mission, and for the restoration of peace, and that the example of his excellency might be followed in repudiating all distinctions of origin, and that they prayed that the efforts of his excellency might be crowned with success. Was there anything in these generous sentiments like an admission of guilt or pleading guilty? He contended that this was the only document that contained anything like an acknowledgment of guilt, and did it justify the language of Mr. C. Buller, or such a proceeding as banishing them to the Bermudas? There were, however, two parts of the ordinance infinitely worse than trnsport ing these men to the Bermudas. The former was objectionable as a matter of law; but these were liable to the most serious objections both as matters of law and common justice. He had heard with surprise the Minister of the Crown declare that the only part of the ordinance which required consideration or amendment was that which related to sending these persons to the Bermudas. Then, according to this opinion, that part of it by which men were sentenced unheard and unseen to be transported was not open to objection. But take the case of M. Papineau, what could be proved against that gentleman? He defied them to bring any charge against him which could not be brought and substantiated against Mr. O'Connell every day in the week. M. Papineau all along condemned the resort to arms, and he was no more guilty of high treason than Mr. O'Connell. Again what was the case against Louis Perault, one of the fifteen persons sentenced to death if they should return to their native land? He had been sent to New York to buy types for the *Vindicator* newspaper. In this place he heard of the death of his brother and the bloodshed occasioned by the King's troops. Knowing well that he had not the chance of a fair trial if he returned, as there would be a prejudiced judge and a packed jury, for there the sheriff could easily pack a jury, as they had not the same jury law as now happily existed in this country, he remained at New York, and without being guilty of any offence, and without trial, he was sentenced to death if he ever returned to his native country. Was this justice or law, or was there even the pretence of a shadow of justice and law for these proceedings? He now came to another act of the Government, namely, a police ordinance for Quebec and Montreal, which was a most curious document. It was the strangest public paper that he had ever seen, by whom it was drawn he could not tell, but it was evidently by one who did not know anything of the law of England. The first part of it directed that, as regarded Quebec and Montreal, any justice of the peace might cause any person to be sentenced to prison for any period not exceeding two months for being disorderly in the street. This was not the strangest part of it. In the next part it enacted that any person found loitering in the streets, or on the footpaths, or pulling down papers posted up, or whistling or singing, or causing a disturbance in the streets by screaming or crying out, should be sent to prison for a period not exceeding two months. Was this a tolerant act or a regular system of proceeding? This might be very good law in Canada, but if such an order could be made to remain a part of the law of this country, the most gross acts of injustice and cruelty might be committed on an offending people. He supposed, however, that these orders were drawn up by the legal gentlemen belonging to the council, namely, Mr. Turton and Mr. Charles Buller, with the view of making the Canadians a more orderly people. The noble Lord the Secretary for the Home Department said that he did not intend to prosecute any party in Canada. But had not some parties been prosecuted without inquiry, and without the means of justifying themselves, and this directly in violation of the pledge given by the noble Lord the governor of Canada? Nearly every one of the persons who had taken a leading part in liberal politics in Canada had been sentenced to banishment to the Bermudas. Lord Durham said in reference to this part that the course that he had taken was not likely to favour their proceedings. And the secretary of this noble Lord stated he supposed that these acts with regard to the prisoners would appear horribly unconstitutional and despotic. This person, who was at once secretary to the Governor, *alias* Member of the Council, *alias* Chief Commissioner for the distribution of unappropriated lands, *alias* Member for Liskeard appeared since his arrival in the colony to have had a communication with one of the most sanguinary men in Canada. This was a Mr. Thom: one of that name had already caused some trouble to the noble Lord, and he was not the only Mr. Thom of a sanguinary disposition who would give the noble Lord trouble. This person was the editor of a Tory paper in Canada—*The Montreal Herald.* That paper recommended, that if M. Papineau should presume to put his foot in Canada, that he should at once be put to death; and he expressed his regret, that the unfortunate prisoners who had been taken had not at once been hanged, instead (to use his own words) of being kept in gaol to be fattened for the gallows. [The hon. Member read an extract from *The Montreal Herald*, in which Mr. Thom spoke of having communication with Mr. Buller.] This was a specimen of the manner in which persons connected with the present Government of Canada kept themselves from party associations. This man stated, that he was an intimate friend of the secretary of the Governor, and was in constant communication with him. There was another appointment to which he should also call the attention of the House for a few minutes; and he did so because he should not have an opportunity for some time of entering on the matter. It would almost appear, that everything that had been done in Lower Canada was illegal and irregular, and that every appointment that had been made was calculated to cause dissatisfaction, and lead the people to believe, that they were not treated with proper respect. He found that Mr. Arthur Buller had been made judge of the Court of Appeal of the colony, which was the chief court in Canada. Now, Mr. Arthur Buller was a young barrister of four years' standing, and those hitherto appointed to this court had been the greatest and most able lawyers in the country; and this young lawyer had been passed over the heads of persons of the greatest learning and experience, and had been appointed to this high and important office. Would it be tolerated in England, that a young barrister of four years' standing, and without experience in his profession, should be made a judge of the Court of Appeal? It would almost appear, that anything might be done with impunity in the colonies, and that, no matter how illegal and irregular a proceeding might be at home, it must be borne in the colonies. But, setting aside the illegality of this appointment, it was, to say the least of it, highly inexpedient and impolitic. Lord Durham was sent out to Canada to supply the place of a provisional Legislature, and there was nothing which the former Legislature could do which could not be done by him. Supposing a former Governor had made such an appointment, would it have been rescinded or not by the Legislature? He was satisfied, that it would have been resisted to the utmost, and he was also convinced, when an independent Legislature was restored to this colony, that it would refuse the supplies if such an appointment was persisted in. Therefore, he contended, that it was highly inexpedient, unwise, and unconstitutional on the part of Lord Durham to pursue such a course as that which he had hitherto followed. He also thought that the conduct of the Government at home was such as to justify all parties in complaining of it as weak and fluctuating. What was the cause of the recent proceedings? On Thursday the Prime Minister of the Crown vindicated the ordinance that had been issued by Lord Durham as a right and proper one, and stated, that the success of this bill would be attended with the most disastrous results to the British connexion with Canada, but finding that a majority of the other House was against him, the noble Viscount came down on Friday, and yielded on every point, and admitted the illegality of the ordinance, and at once gave up all matter in dispute, and sacrificed Lord Durham. On that occasion he talked in a most extraordinary tone, and likened the majority opposed to him to a low and truculent democracy.

The *Speaker* interrupted the hon. Member, and stated, that he could not be allowed to allude in that manner to the proceedings of the other House.

Mr. *Leader* would readily bow to the Chair. He would, therefore, assume that in some former period a certain great Minister had called the majority of a great assembly of legislators a low and truculent democracy. What strange language this would be for a noble Viscount to use who came into power by the aid of the people, and who maintained himself in it only by the aid of the people, to complain of those opposed to him imitating the people. He knew not by what acts or means the noble Lord and his colleagues expected to maintain themselves in power. If the head of them denounced a democracy in this way, was it that he wished it to be understood that he relied on court favour? which, indeed, he might have in a high degree, but which support he would find to be weak in comparison with that which he formerly derived from the people. For his own part, he thought that the country had a right to complain of the conduct of the Government in denouncing that on Thursday as being attended with imminent danger to the country, and on Friday being prepared to adopt it when they found the majority of the other House determined to force it on them. On Thursday the noble Viscount at the head of the Government declared that the ordinance was good and legal and proper, and on Friday he came down and admitted that it was illegal and bad, that he was perfectly indifferent to it. Under these circumstances, he thought that Lord Durham had a good ground of complaint against his colleagues in the Government; for they had sacrificed him to the majority against him in the other House. He might say, that although there was an adverse majority in one branch of the Legislature, this was not the case with respect to the House of Commons, and Ministers could with advantage vindicate and defend their absent friend and colleague there, and prevent any measure passing which censured him to a certain extent. They, however, intended to let it pass through this House without opposition; the noble Earl might, therefore, fairly complain of the conduct of Ministers, as the people out of doors did, of their being weak and contradictory in their policy. He thought that it was a weak and immoral Act to pass a bill of indemnity, and, therefore, he objected to it. In conclusion, he knew not on what ground her Majesty's Ministers would defend the desertion of their friends any more than the desertion of the principles they professed; but, he believed, that they would require bills of indemnity for many more Acts besides the present.

Mr. *Hawes* thought that any one anxious to promote peace in Canada would have been desirous to avoid everything that was likely to throw impediments in the way of the Government. He regretted that his hon. Friend who had spoken last should have concluded his speech with a general declaration of disapprobation at the conduct of the Government. He had never been an obsequious supporter of the Government, for whenever he had thought it to be his duty to oppose them, he had never hesitated to do so; but in a question like the present, involving the interest of a large and important mercantile class, and the peace and welfare of a most valuable colony, he should have thought that it would have been considered by all parties as most desirable to abstain from matters calculated to produce excitement. He was of opinion that such a bill of indemnity should not have been allowedto pass the other House; and if any one pressed the House to a division on the subject he would vote against it, as he thought that both the Governor of the colony as well as the Government should be made responsible for their conduct, and he was glad to find that the noble Lord and his colleagues were prepared to answer for the course that they had taken. He could not, however, agree with the hon. Member for Westminster in the view that he had taken of these proceedings, and that the proceedings in Canada should be described in the manner in which they had been. He repeated that if the Governor of Canada had acted irregularly he should be made responsible; but with regard to the Earl of Durham he did not ask for this bill, nor did he nor her Majesty's Ministers require it. No party that was responsible for the acts he had done called for it, and if it had been introduced and carried through the other House, it was against the wishes and inclinations of the Government; for if the wishes of the noble Lords connected with it in another place had been consulted, it would have been rejected altogether. He clearly understood the noble Lord below him, and a noble Viscount elsewhere, to declare that they abided by the general course pursued by Lord Durham, and that they were prepared to take upon themselves any share of the responsibility for his acts. If the course that that noble Earl had pursued was thought objectionable to the best interests of the country, the House should have been called upon to give a distinct expression of opinion on his conduct, and this should have been followed up by a vote of censure, and by a declaration of a want of confidence in the Government, instead of resorting to an indirect and cowardly attack on Lord Durham, for he could not help regarding the present bill as such. He could have understood such a course of proceeding; but when he looked to the preamble of the bill, he could not help feeling that the peace and security of the province might be sacrificed, which it was alleged the promoters of this bill had so much at heart; and under the pretence of the illegality of sending certain persons to the Bermudas, they had stepped in, and forced an indemnity on him and the executive Government, which they neither sought for nor required. If these improper or illegal acts had been committed, they should deal with the executive Government, and with the Governor of this distant province, and look to them for a defence and explanation of their conduct, but he protested against this insidious and indirect mode of proceeding. But it appeared that the conduct of the Earl of Durham—he did not look to any individual act, but to the general result of his conduct—had proved perfectly satisfactory to all persons connected with this colony. What was the case with the merchants connected with the trade of Canada? He had in the city asked this class of persons most deeply interested in the welfare of the colony, whether under Lord Durham's administration property was less secure?—whether the disturbances had increased?—whether there was a greater want of confidence in the Government of Lord Durham than was formerly the case as regarded other Administrations?—and whether the probability of the return of peace and tranquillity was less than had formerly been the case? and he uniformly found that the result of his inquiries was favourable to the policy of Lord Durham, and that the continuance of the same system was more likely than anything else to promote a permanent and satisfactory connection between the mother country and the province. The present measure purported in the preamble to be a bill of indemnity; but Lord Durham was not only willing, but anxious, to bear all the responsibility that he could be liable to for his conduct, and the Ministers were willing to share that responsibility; and he was sure if time were given for an explanation a most satisfactory vindication would be given for all the proceedings now complained of. He would ask, had Lord Durham shed a single drop of blood or confiscated a single estate since he had been in Lower Canada? The hon. Member for Westminster had moved for a return of the number of persons executed and of the estates confiscated in Upper Canada. Why had he not moved for such a return with respect to the lower province since the noble Earl had been there? The hon. Gentleman had not done so, because he presumed that the hon. Member was aware that no blood had been shed in Lower Canada since the arrival of the noble Earl, that no estates had been confiscated, and that no complaints had been made of the policy that had been pursued. He had conversed with a number of persons in the city who were connected with Canada, and he had questioned them as to the course pursued by Lord Durham, and he had uniformly found the answer to be the same, namely, that the province was more quiet, and that if the same policy was adhered to a state of most satisfactory and permanent tranquillity was likely to ensue. This was the result, while the whole indignation of Parliament was to be opened on Lord Durham for restoring peace. It appeared also that the persons who had been sentenced had pleaded guilty [Mr. *Leader*, no, no!] The hon. Member said no, and in the course of his speech had read a part of a document with the intention of supporting this assertion. Lord Durham, however, had declared that these persons had acknowledged their treasons, and had thrown themselves on the mercy of th Crown. The hon. Gentleman, therefore, must excuse him for relying rather on the authority of the noble Earl than on the inference of the hon. Member. It might appear in the eyes of some to be a very light affair to take up arms against their country, but those who countenanced such a proceeding entertained opinions to which he could never yield his approbation. He was glad to find that the noble Lord below him concurred in the opinions which he had expressed, and he was glad to find that the noble Lord was prepared to express himself as he had done respecting the preamble of the bill. It had been alleged that the groundwork of the bill was essential to the security of the province, but he thought that if such was the opinion of certain persons they should have endeavoured to induce Parliament to censure the executive government, for the noble Lord stated, that he and his colleagues were willing to take upon themselves, the responsibility of their proceedings. If therefore, the Government objected to this bill, and were prepared to answer for the conduct of the Governor of Canada, the hostility of hon. Gentlemen should not be directed against Lord Durham, who was not here to answer for himself. It appeared, however, that the party opposite could not wait, but appeared glad to avail themselves of the earliest opportunity of passing what might appear to be an indirect censure upon that noble Earl. The noble Lord opposite had dwelt on the conduct of the noble Earl, and had strongly supported the bill, which had been carried by the exertions of his friends elsewhere. No doubt the supporters of this bill were influenced a great deal by party spirit. Before he sat down, he felt called upon to say a few words in vindication of an absent friend, who he thought had been most unfairly attacked by the hon. Member for Westminster. He believed that the person to whom he alluded was also a friend of the hon. Member—he alluded to the hon. Member for Liskeard—[Mr. *Leader:* No; I disown him.] For his part he should be most unwilling to disown or cast off a friend in that way. He was satisfied that the abilities of his hon. Friend, as well as his general bearing and demeanour in that House, was such as to ensure to him the respect of most hon. Members, in spite of any distinction of party politics. With respect, however, to the publication of these letters, he would ask ought his hon. Friend to be made responsible for their publication? The fact was, that some extracts from some private letters of his hon. Friend had been inserted in a newspaper, and he had been dragged into a public discussion, and made responsible for certain expressions without his knowledge, and without his sanction. He did not envy the feelings nor the taste of those persons, who had thus dragged the name of Mr. Charles Buller before the House; but he was sure that when his hon. Friend read the debate of what had taken place, that he would readily furnish a most triumphant vindication of his conduct. He repeated that he did not think that they should pass this bill of indemnity; but if he were to go to a division to reject it, he might not, perhaps, find a seconder to his motion; he should therefore content himself with protesting against it. He thought that the executive government should be made responsible for their proceedings, and they had expressed their readiness to be so; all parties, however, seemed determined that the bill should pass. He exceedingly regretted this, as he thought that it would interfere with the government in Canada, in the most objectionable manner, and that it would be found necessary hereafter to retrace their steps, and they would also be setting a bad precedent in pursuing the course which they did. He could not help feeling that this bill was founded on the proceedings of one of those spirits, who were—

"Anything by turns, and nothing long."

The hon. Member concluded by protesting against a bill for such a purpose as the present, and, above all, as it had not been brought in by the executive; and he trusted that it would not serve as a precedent.

Sir *W. Follett* was anxious to offer a few observations to the House, more particularly after the allusion which had been made by the noble Lord opposite, as to the share which he took in the discussions on the Canada Government Bill. In making these observations, he should endeavour to avoid the example of the hon. Gentleman who had just spoken, and should, as far as possible, abstain from adverting to the wisdom or policy which had dictated the ordinances in question. He quite agreed in what had fallen from the noble Lord opposite, that the Governor-general was placed in a situation of great delicacy and difficulty, and he admitted further, that Parliament was not in possession of sufficient information as to the facts and circumstances of the case, and the precise difficulties which surrounded Lord Durham, to enable it to come to any decided or just opinion as to the wisdom or policy of that noble Lord's proceedings; and, therefore, if the question was limited to the conduct of the noble Lord, within the scope of the authority given him, he should at once have said, that it would be the wiser and more proper course for Parliament not to direct its attention to the subject until it should be in full possession of every fact of the case. But the question was not limited to this point. In making the observations he felt it his duty to address to the House, he would distinctly say, that he was perfectly willing to give Lord Durham every credit for the integrity of his motives, and to admit his belief that the noble Lord's object in passing these ordinances, was the humane one of saving the lives of the parties who had violated the law; yet, at the same time, he (Sir William Follett) found it difficult to account for the extraordinary manner in which these edicts had been passed. The Parliament of this country had passed an act giving to the person to be appointed Governor-general of Canada, the power of passing certain laws during the suspension of the constitution in that country, with the advice and consent of a special council, not to consist of less than five persons. Now, no such special council was in existence until the 28th of June, the day on which the edict passed, but on that day, the whole of the five special councillors were appointed and sworn in. Now could it be supposed for an instant, that these gentlemen so appointed and so sworn in, on the 28th of June, could be in a situation, advisedly to concur in passing these ordinances on the very same day, to decide upon the propriety and justice of sentencing eight persons to transportation, of denouncing the punishment of death on fifteen other persons should they return to Canada, and of exempting other persons from any punishment at all? It was quite absurd under such circumstances to talk of the Governor-general having acted in this matter by and with the advice of his special council. It was quite impossible that these special councillors could have duly examined the circumstances or sifted the evidence in the case of these parties, or could have had time to form a sound judgment whether they were respectively worthy of pardon, or had merited transportation, or ought to be for ever excluded from the province on pain of death. But this was not the only point. The question which forced itself upon the attention of Parliament was this, and a most important one it was, considering what very serious consequences might arise from any doubts being raised as to the legality of these ordinances, and from the circumstance of their being disallowed by her Majesty's Ministers. The question was, whether Lord Durham had not exceeded the very large and ample, nay, the strong, the arbitrary, the coercive powers—for such they were undoubtedly—which had been given him. The question was, whether he had not passed ordinances which were not warranted by the powers vested in him. Let the House consider for a moment how enormous was the power which the noble Lord must be assumed to possess to make these ordinances legal. He himself had no doubt whatever as to their illegality. He had a perfect recollection of the discussions which took place in the House on the Canada Government Bill. He in particular clearly remembered all that was said by the introducer of the bill, and by other members of the Government, and his full conviction was, that it had never been the intention, at all events, of Parliament, to give the Governor-general of Canada any such powers as the competency to pass these ordinances must assume him to possess. If any such power was given him by the Canada Act, he (Sir William Follett) was quite sure that such was entirely contrary to the intention of at least the great body of those who sanctioned the measure. It was quite impossible that these ordinances could be legal, unless Lord Durham was held to be invested with absolute and uncontrolled power, not only over the property and liberty, but over the lives of every inhabitant of the province. He did not mean to say, that even if such immense power existed in Lord Durham, it would be abused; but of this he felt clear, that if these ordinances were legal, the power of the Governor-general of Canada, with his shadow of a council, was absolute and uncontrolled power over the lives and property and liberty of every person in the province, was a power against which no appeal could be made, and which was exempt from any interference on the part of the Crown. The question here was not whether the Governor-general had power to interfere with the criminal law, but whether he had power to set himself above all law, whether it was competent in him, by his own arbitrary fiat to declare certain persons to be guilty, and that they shall suffer transportation or death at his discretion and mere will. He would put it to the House, if such a proposition had been hazarded to invest the Governor-general of Canada with such monstrous power as this, whether such a proposition would not instantly and indignantly have been rejected by the House. No bill could ever have passed which gave any man whatever, how high soever his character, such powers as these. Reference having more than once been made to the proviso, which he (Sir W. Follett) was described as having introduced into the bill, he begged to say a few words as to the manner in which that proviso had been introduced, and the object for which it was framed. The noble Secretary of State, opposite, when he came down to propose to Parliament to suspend the Canadian constitution, said:—

> "We are obliged to suspend the Legislative Assembly of Lower Canada; we cannot call them together; and in the absence of a Legislature there, it will be necessary to send out a Governor, for the purpose of collecting the opinions and sentiments of the inhabitants of both provinces, for the purpose of seeing whether we cannot introduce a new constitution, and a new form of Government there, which may remedy the evils and difficulties which now exist."

The measure accordingly introduced, was strong, was arbitrary, was despotic in its provisions, but under the circumstances of the case, Parliament assented to it. But what passed in reference to the extent of the Governor's legislative power? It was represented, that as the existing Legislature of Lower Canada would be suspended for a time, it would be necessary to provide for the passing of such Acts as might be from day to day necessary for the local interests of the province. The explicit statement of the Colonial Secretary was, that he only asked for such limited power as should enable the Governor in Council to legislate on local matters. There was not one word said about criminal law—not one word about juries—not one word about the inadequacy of the existing means to the due administration of justice—not one word about the necessity for suspending the Habeas Corpus Act. But what occurred? When the bill was first introduced, it gave to the Governor of Canada and his Council—notwithstanding the statement that all that was wanted was a limited legislative power—it gave the Governor the power of making such laws and ordinances as might be for the good government of the province, without any restriction at all, except this, that he was not to interfere with any of the provisions of the Act of 1791 respecting the mode of electing members of the Legislative Assembly. It was considered that the effect of this would be to give the Governor the power of interfering with the Acts of the Imperial Parliament, and with the fundamental and constitutional institutions of the province. Upon this objection being made, an alteration was proposed by the Government for the purpose of restricting the legislative power of the Governor to that of passing such laws as the Colonial Legislature was empowered to make. It did not, however, appear to the Gentleman on his (Sir W. Follett's) side of the House, that this amendment went far enough; it excluded, certainly, the Governor, from suspending, altering, or repealing, the general statutes of the Imperial Parliament; but it so happened that the Imperial Parliament had given the Colonial Legislature, power to alter, suspend, and repeal certain of the Acts of the Imperial Parliament, and it was felt that though this might be a very proper power to give the Colonial Legislature, which was legislating permanently for the province, it was one which ought not to be given to a functionary, sent out for a temporary purpose. He (Sir William Follett), among others, had, therefore, insisted, that the Governor and council should not be empowered to interfere with any Acts of the Imperial Parliament, or any Colonial Acts, bearing upon these Acts. A proviso to this effect was adopted by the hon. and learned Gentleman opposite, and inserted in the bill. Throughout the discussion he had insisted upon the principle that the Governor-general should not have the power of interfering with any acts of the Imperial Parliament; and it had been as distinctly declared by Government and by hon.

Gentlemen opposite, that the only object in view was, to empower the Governor to pass such laws as the common local interests of the province should from time to time require. No reference at all was made to the criminal law of the province or the mode of administering justice there. In suggesting the proviso in question he could assure the House, that he had no intention whatever of fettering the Governor with reference to the criminal law. He had not had the subject in his mind at all. To return to the ordinances, it appeared to him, that they were clearly illegal; the Colonial Legislature itself had never any power to pass such ordinances as these. Let the House consider what these ordinances were. First, the Governor and his Council said, " Here are eight men who have acknowledged themselves guilty of certain offences." Acknowledged themselves! Where, to whom, had they acknowledged themselves guilty? Not certainly before any constitutional tribunal. They had not been arraigned, they had not been called upon to plead, they had not pleaded guilty, yet here it was stated, that these eight persons had " acknowledged themselves guilty." Let him ask, if such an " acknowledgement" as these persons had made were attempted to be made use of here, what effect would it be of? It could only be used as evidence to be produced on their trial before a jury, and to which the jury would give only such weight as they thought proper. Yet in this case the accused persons, without trial, without a jury, without having an opportunity to call or examine witnesses, without being even called on to plead, were at once arbitrarily sentenced to transportation from the province. This was one ordinance; what said anoher? That fifteen persons, who stood harged with a certain crime—though it did not appear even that an indictment had been found against them—that fifteen persons who stood charged with certain crimes, and who were supposed not to be within the jurisdiction of the court, should suffer death if ever they came within that jurisdiction, no matter with what honest intentions they might so come, no matter though they came to plead their innocence and demand their trial by the laws of their country. No, the edict declared to these persons, " You shall not be tried, but if you come here to ask for trial you shall, without further ceremony, be held to stand convicted of high treason—your blood shall be attainted, your property confiscated, and you shall suffer death." Was such an ordinance as this one which the legislature of Lower Canada ever stood empowered to pass? Surely not. It was an ordinance totally contrary to every principle, not only of British law and of Canadian law, but of every law which he (Sir William Follett) had ever seen or read of as the law of a civilized country. By the act of 1774 the criminal law of Great Britain was declared to be the criminal law of Canada. There was no doubt, that by the act of 1774 express power was given to the legislature of Canada to make amendments and alterations in the criminal law. But he very much doubted whether the colonial legislature would have had the power to altogether abolish the criminal law and to have said, that the English criminal law should not prevail in the colony, but that the law should be the criminal law of France. He did not think they could pass such an ordinance as that. There was this extraordinary restriction by the fifteenth section of that act At that time the Imperial Legislature would not intrust the legislature of Lower Canada with the power of creating any new offence where the punishment was more than three months imprisonment; and by the fifteenth section it was declared, that no act of the colonial legislature creating any offence should be valid without the sanction of his Majesty in Council. By this act, therefore, the colonial legislature could have no power of passing an act of attainder, and, consequently, could not inflict the punishment of death. But he did not rely upon this mere distinction as to the degree of punishment that was to be inflicted; he relied upon the great principle that the colonial legislature could not pass an act that should be contrary altogether to the spirit of that statute of 1774 still less could they pass an act that was diametrically opposed to the principle, both of equity and of justice, of the criminal law of this country. That act continued in force and practice till the year 1791, when the colonial legislature was altered. An express power to do so was not given by the act of 1791, but he did not deny, that the colonial legislature had the power by the act of 1791 to make amendments in the criminal law in the province. But the act of 1791 did not give them any greater powers than the act of 1774. Therefore the colonial legislature might have the power of making alterations in the criminal law, and yet might not have the power of repealing the act of 1774, or of making any law entirely inconsistent with that act. That being the law the noble Lord (Lord J. Russell) might be perfectly right in saying that the ordinance of Sir John Colborne might be perfectly legal. It was said, that he had the right of suspending the Habeas Corpus Act. But what was that power? In this country the suspending of the Habeas Corpus Act was this:—an act was passed declaring, that certain persons might be arrested by the great officers of State without being bailed for a certain time. But an act of indemnity was always required after suspending the Habeas Corpus Act. But it appeared by the ordinance itself of Sir John Colborne, that what was called an act to suspend the Habeas Corpus Act, was a certain edict of the colonial government. He did not see any reason to doubt the power of Sir John Colborne to make that edict. He did not think it was quite prudent of the noble Lord, considering the effect which the discussion of these questions might have in Canada, to bring forward the ordinances of Sir John Colborne, as if a question were to be raised as to their legality, and as if they were to stand or fall according as the decision should either be in favour of the legality or illegality of the ordinance issued by the Earl of Durham. The ordinances of Sir John Colborne might be perfectly legal, and yet the ordinance of the Earl of Durham might be perfectly illegal. Therefore he could not conceive, when the noble Lord saw the mischief which was likely to arise from having the legality of Lord Durham's ordinance discussed, why the noble Lord should have raised the question as to the legality of the ordinances of Sir John Colborne. If the object of the noble Lord was to insinuate that any person on the Opposition side of the House was actuated, in the consideration of this question, by any thing like political party feeling, he must entirely deny the fact. He himself stated what was the impression on his own mind when the question was first brought before the House, and he would now repeat, that his impression was, that the Governor-general and his Special Council were not warranted to assume the powers of the colonial Legislature. That was also the opinion of a noble and learned Lord whose mind could not be suspected of being warped by any political bias. Lord Denman had stated, that he thought these ordinances were illegal, not in consequence of the proviso in the Act, but upon the general principle of law. He differed entirely from his hon. and learned Friend (the Attorney-general) if he supposed, that the noble and learned Lord had said, that these ordinances were unconstitutional but not illegal. He had understood the noble and learned Lord to say, that they were illegal. But, be that so or not, when it was said, that the ordinances were unconstitutional, what was the meaning of that? Unconstitutional when applied to these edicts was, he apprehended a description of the violation of what was known as the constitutional law of this country. Now, no one of the dependencies of the Crown could have the power of making a law which would so interfere with the constitutional rights of this country. Then what was the law? Why, the Act of 1774 declared, that all persons should be tried by a jury, and that the witnesses should be examined in open court. And what did this ordinance say? Why, in the face of the Act of 1774, it declared that these parties who were accused of high treason, should not be tried by a jury, that they should not have witnesses examined in open court, and that they should not have the option of a trial. Sir John Colborne in his edict said, to the parties—"If you do not come in and take your trial you shall suffer the consequences;" but this edict of the Earl of Durham said—"If you do come and take your trial you shall suffer death." It was for the reasons he had now stated, that he thought these ordinances were illegal. He did not speak of the wisdom or the policy of the proceeding taken by the Earl of Durham, though he could not help regarding it as extremely injudicious, because it was impossible not to see that whatever might have been the motive of the noble Lord in passing an edict of such apparent severity, the effect of passing a law or ordinance which was afterwards set aside by the Government at home, and which was denounced by Parliament must be prejudicial to the colony itself. There existed in Lower Canada the ordinary powers of the criminal courts of this country. If a person were indicted for a crime and absconded, the Government might by proclaiming him in the proper courts obtain a judgment of outlawry against him, the effect of which was as if the party were convicted of the offence. But what was a bill of attainder? Generally it was only to carry into more full effect the ordinary proceedings of the law. It was this:—If a person did not come in to take his trial at a certain time, then the bill of attainder declared, that punishment should follow as if the party had been outlawed or convicted. He was not aware, nor did he believe, that there was any instance, except where a person was actually in arms against the Crown, in which a bill of attainder had passed. The edict of Sir John Colborne was in the nature of a bill of attainder; but that of the Earl of Durham was not. The first said to the party, "If you do not come in and take your trial you shall be punished;" but the second said, "If you do come in you shall be punished." Therefore one of those edicts might be legal, although it was a bill of attainder, and yet the other might not, He wished to ask the noble Lord opposite one question as to the effect which the repeal of this ordinance of the Earl of Durham might have in Canada? If the noble Lord wished, on the part of the Government, to introduce any measure with regard to those persons who were mentioned in the ordinance to do away with the effect which might be produced by the bill now declaring its invalidity, he did not think, that on his side of the House there would be any objection to it. But the noble Lord had said, that he believed the other House of Parliament would not consent to it, because an amendment which was proposed by the noble Viscount at the head of the Government, was declared by the House of Lords to be objectionable. Why, he must say, that if an amendment couched in such terms as that was, were to be proposed now, he should feel it is duty most strenuously to oppose it; for what was the effect of that proposed amendment? Not to do away with the evil consequences of the illegal ordinance, but to vest powers in the Earl of Durham, which, would have far exceeded those he already possessed. He would venture to say, that the powers proposed to be conferred by that amendment, were powers before entirely unheard of. It was proposed to empower the Governor and Special Council to pass such laws and ordinances as might be deemed necessary for the safety of the province or for providing for the trial or punishment of persons engaged in treasonable practices. Who was to judge as to the necessity of making laws and ordinances for the safety of the province? Why, the persons in whom this power was to be invested. Now, without meaning any reflection on the Earl of Durham (of whom, indeed, he did not wish to say anything), he must observe, that if the Government wished to give new powers to the Governor and Special Council in Lower Canada, in the first place there ought to be a case of strong necessity made out for any new powers being given; and, in the next place, those powers ought to be clearly and strictly defined; and they ought not to give powers to persons who were to be the sole judges of the propriety of exercising them. He was therefore, not surprised that the House of Lords rejected Lord Melbourne's amendment. But if the noble Lord were to ask for powers enabling the Governor and Special Council to suspend the Habeas Corpus Act, he did not believe, the Legislature would refuse it; or that they would refuse their consent to make some provision to avoid the ill effect of the repeal of this ordinance as regarded the cases of those men who were mentioned in it. He begged the noble Lord, when he said he was willing to take upon himself the responsibility of annulling this ordinance, to consider maturely whether he ought to be, or could be, satisfied with the simple repeal of the ordinance, without any provision being made at all, either with respect to the men who had been transported, or with respect to those who were still at large, but who had been the ringleaders of the rebellion in Canada. He apologised to the House for having occupied their attention so long. He, for one, regretted very much that this discussion should have taken place at all; at the same time, he could not help thinking, that if the discussion had of necessity taken place, it was much more likely that a declaration by Parliament, and by the same Parliament that had consented to grant these coercive powers in the early part of the Session, that a declaration by them, that they would not sanction any violation of the law in the province of Lower Canada, no matter from what motive that violation was committed, and that they would uphold, according to its known and settled rules, the administration of criminal justice there. He could not help thinking, that such a declaration from such a body was likely to unite more closely to this country, all the loyal part of the inhabitants of the colony; and he should hope, would be the means of bringing back to a willing obedience to the law and government of this country, that portion of the people who had for a time been misled by the artful designs of wicked persons, and of binding the whole colony for the future in a firm allegiance to the British Crown.

The *Attorney-General* had heard, with the greatest satisfaction, the declaration of the noble Lord, the Member for North Lancashire, and the declaration of his hon. and learned Friend, the Member for Exeter, that they regretted the agitation of these questions. His firm belief was, that the agitation of these questions was likely to be attended with the most disastrous consequences. It was not to be ascribed to the Government that this subject had been brought before Parliament. Neither was it to be ascribed to the noble Lord opposite, or to his learned Friend. He believed, that they would most religiously have abstained from bringing such a subject forward. The Earl of Durham had most successfully proceeded in pacifying the dissensions in Lower Canada. His measures were received with satisfaction by both parties in that country. In that country there was no complaint of this ordinance in any quarter; and his firm belief was, that if no objection had been made to it on this side of the water, all would have gone on smoothly and harmoniously. The object of the ordinance was clearly to prevent the entrance of the persons accused of taking part in the rebellion into Lower Canada, without the permission of the Governor, until the pacification of the province had taken place. Those individuals would not have thought of entering the province without the permission of the Governor, who might have granted that permission to particular individuals on particular conditions, without any complaint being made by any party; and his belief was, that in a short time the Earl of Durham, who had patriotically undertaken this arduous mission, would have returned to this country covered with complete success. He hoped, that that nobleman would still persevere in the glorious task in which he was engaged; and that he would set at defiance all those who were his detractors and his enemies. But it was impossible to disguise that there was great danger that his authority might be shaken by the attempts to attack the policy which he had pursued. With regard to the bill before the House, he regretted exceedingly that it should ever have been introduced. There existed no necessity for it, for no action ever would have been brought, nor prosecution ever instituted or thought of by the parties named in the ordinance, if it had not been for the ingenuity of certain lawyers in this country, who suggested the illegality of that ordinance. It had been stated by the hon. Member for Westminster, and by the hon. Member for Lambeth, that the Earl of Durham did not want this indemnity. He agreed with those hon. Members, that it never would have been required, and that the introduction of such a measure was both officious and insidious. But as it had been introduced, and as the subject had been discussed and the question agitated, and as it did appear to him, on just consideration, that that part of the ordinance which was to be executed beyond the territory of Lower Canada, was not justified by law, he had no hesitation in voting for the bill. A bill of indemnity in this case was not at all subject to the objections which had been made against it by the hon. Member for Lambeth, or by a noble and learned Lord elsewhere, because *volenti non fit injuria.* All those who could have brought actions against persons acting under the authority of this ordinance, had confessed their guilt. "Oh, but," said the hon. Member for Westminster, "they did not confess that they were guilty of high treason; they only confessed that they were found in arms against the Queen's Government, and as the Queen's Government was not legal, that act was not high treason." He was sorry that, in the House of Parliament, such doctrines should be laid down. When it was confessed by those persons that they had openly opposed, by force of arms, the authority of the State; and when they levied war against the Queen within her realms, was that or was it not confessedly high treason? Those persons, then, could have had no cause of complaint at the issuing of the ordinance; and if they had instituted a prosecution, they would not have been able to have obtained more than one shilling damages. It was quite clear, that this case was distinguishable from the one which had been referred to, where a person was illegally arrested and detained in prison against his will, and where, after having languished for months or years in gaol, he was discharged, and then a bill of indemnity was passed to prevent him from bringing his action. Such a bill was stated to have been passed in 1818. To that bill he should have been strongly opposed, if he had been a Member of Parliament at that time. It was clearly an unconstitutional act; it was most unjust; but there was no resemblance between such a bill passed in 1818, and the bill now proposed in 1838, which only said, that those who had petitioned to be sent to the Bermudas, should not have an action against those who had complied with their request, and sent them. That was the sum and substance of this bill of indemnity. He would now come to the points of law which had been discussed during the present debate. One of those points had been respecting the legality of that part of the ordinance by which certain persons were to be sent to the Bermudas, and kept there under restraint. Some had said, that that part might be defended upon the ground, that the Governor of the Bermudas had the power, where a person had been judicially convicted and sentenced to transportation, to send him either to a penal colony, or to England, and that from England he might be sent to such parts beyond sea as her Majesty in council should command. He could not yield to that argument, because the individuals in question were not tried, and were not judicially convicted. This ordinance was a legislative act. Now, as a legislative act it could have no power or operation beyond the province of Lower Canada. The Earl of Durham was Governor of the whole of the British American colonies, but his legislative power was confined to Lower Canada. This being a legislative act it could have no operation beyond the limits of that province, therefore, he without hesitation, pronounced his humble opinion that that part of the ordinance exceeded the authority of the Governor and his council. His hon. and learned Friend had stated, and he could have wished that his hon. and Learned Friend had adhered more strictly to his own position—that this was not the time to canvass the policy of this ordinance. True, they were now only arguing the legality of that document. He, therefore, should give no opinion upon the policy of the course taken by the Earl of Durham. It was not necessary that he should give any opinion whether it was constitutional or unconstitutional, he should simply confine himself as to whether it was legal or illegal. He had no hesitation in saying, that without more information than he now possessed, that, if his advice had been asked, he should have counselled the ordinance to be framed in a different fashion. But he was wholly incompetent to give any opinion because he knew not the facts and circumstances under which this ordinance was framed. It might have been more expedient to have proceeded according to the common process of outlawry: or if there was to have been a bill of attainder to have proceeded according to the precedents, and have given the party a day to come in, and if he did not come in within that day, then that he should stand convicted. But there might have been, and he had no doubt there were very strong, cogent, and satisfactory reasons for following a different line of conduct. He had confidence in the Earl of Durham, and in those who had advised him. He would not condemn men in their absence. He wished, before he gave any opinion as to the policy of these proceedings, to hear what the Earl of Durham might say in his defence; he wished also to hear what the members of the council might say in their defence; and he had not the least doubt that they would show that they were individually justified in the course which they had recommended to be adopted. One part of the ordinance said, that the fifteen individuals mentioned in it were not to return to Lower Canada without the permission of the governor, and that if they did, they might be apprehended and tried for rebellion. That they should be tried not for the original offence certainly, but only for having returned to the province. That was the offence, undoubtedly. Now his humble opinion was, that that part of the ordinance was within the authority of the Earl of Durham and his Special Council. He begged the House to recollect that this ordinance was a legislative act. The hon. Member for Westminster said, that he would give them another instance in which the executive power of the Governor had been abused, the hon. Member not being able to make the distinction between the legislative power and the executive power. Others had fallen into the blunder of not distinguishing between what was judicial and what was legislative. They had represented that these persons had been condemned by a court of justice without being heard, and that there had been a gross violation of the mode in which justice ought to be administered. If this had been a judicial proceeding most unquestionably it would have been, but it was not judicial; it was an act of the Legislature, and they had, therefore to see whether this legislative body constituted by the act passed this Session had the power to pass such an act as this ordinance was. This question depended entirely upon the construction to be put upon the act of this Session. The powers conferred by that act upon the Governor and Special Council were, among others, these:—they were empowered to make laws for the good government of the province of Lower Canada, as the Legislative Council of Lower Canada, as constituted at the time of the passing of the act, was empowered to make; and all laws and ordinances so made, subject to the provision for the usual sanction by her Majesty, were to have the like force of the laws which had been passed (before the passing of the act of this Session) by the Legislative Council and Assembly of Lower Canada, and assented to by her Majesty, or in her Majesty's name, by the Governor of the province. There was an exception in this clause of the act, which he would by and by refer to. Here, then, was a Special Council constituted with all the powers belonging to the old Legislature of Canada, as constituted by the act of 1791. He would admit at once that if his hon. Friend could show that the Legislature of Lower Canada as constituted by the act of 1791 could not have passed such an ordinance as this, then that this ordinance was illegal. But he (the Attorney-general) felt that he should be able satisfactorily to shew that this ordinance might have been passed by the old Legislature, and if so, it might be passed by the new legislative body, unless it came within some of the exceptions subject to which that new legislative body had been made. Let them, then, see what was the power given to the old legislative body of Lower Canada. It was unnecessary for him to enter upon the general question whether the legislatures in every colony had this power, because the Legislatures of Upper Canada and of Lower Canada were established by an act of the Parliament of Great Britain; and with respect to those provinces, therefore, it was only necessary for them to see what were the powers conferred on those Legislatures by such act. This act of Parliament, the 31st Geo. 3rd. abolished the Legislative Council which before existed in the Canadas, and then appointed a new Legislative Council, consisting of a Legislative Assembly and a Legislative Council in each of the two provinces, which were then for the first time divided. And what were the powers conferred by the Imperial Parliament on the Colonial Assemblies? They were to make laws for the peace, the welfare, and the good government of such provinces, provided only that such laws were not repugnant to that act; and it then went on to say, that all such acts passed by the Legislative Assembly, when assented to by his Majesty, or in his name, in the manner therein prescribed, should be, and were thereby declared to be, "valid and binding to all intents and purposes whatever, within the province where the same should be so passed." Here, then, was constituted a supreme Legislative Assembly, with power to do everything which was not forbidden by the act which constituted it; and the act then went on in the subsequent clauses to enact what should be the franchise, what should be the reserves of the clergy of the Establishment; and then, after making some enactments respecting religion, proceeded to say, that certain laws which might be passed should not be valid till they had been transmitted to England and had been laid before the two Houses of Parliament. Under these restrictions, therefore, the Legislature so established was possessed of supreme legislative powers. What doubt was there then, that the legislature of Lower Canada which existed before the passing of the act of the 1st Victoria, had the authority to pass such an ordinance as had been issued by Lord Durham and his Council? But Lord Durham and his Special Council had all the authority of the old Legislature, and they seemed therefore, to him to have clearly the right to alter the criminal law, and if so, they might alter the criminal law as it affected individuals, as much as they might alter it with respect to any class; and if there was a power to alter the criminal law, there was a power to suspend the Habeas Corpus Act; and not only had this been done, but acts of attainder had been passed, and indeed all these powers had been exercised by the Legislative Assembly of Upper Canada; now, Upper Canada possessed only the same power as Lower Canada, and could there be a doubt, when the first had exercised these powers, that the latter also possessed them? He would show, when he came to that part of the case, that there were acts of this kind passed by the Legislative Assembly of Upper Canada. The result would be, therefore, that the former legislature of Lower Canada could clearly have passed this law, and if so, the same power belonged to the Earl of Durham and his Special Council. Then let them look at the exceptions in the act of Parliament. Before he noticed this part of his subject, he would refer to a question of the noble Lord, the Member for North Lancashire, (Lord Stanley). The act of 7th and 8th of William 3rd, c. 23, declared, that any law passed in any of the plantations repugnant to the law of this country, was absolutely void, and that answered at once the noble Lord's question; for they had the power of departing from the law of England so far as to make a felony in the colony of what was only a trespass in England, or to make a trespass in the colony of that which was a felony here; but as to the laws of this country, which were made absolutely binding on the colony, the local Legislature had no power whatever, and as for the repeal of any act of the British Parliament, which was intended specially to apply to such colony, was absolutely void. The ordinances, however, of Lord Durham did not violate any British act of Parliament supposed to be applicable to Canada. But let them look to the exceptions—and he said, that there were no implied exceptions—the criminal law of England was not meant specially to apply to Canada or to any of the colonies. His noble and learned Friend had said, that the Habeas Corpus Act could not be introduced into, and could not be repealed in, the Colonies; but here he differed from his hon. and learned Friend, because if the criminal law were introduced into a colony, the Habeas Corpus Act which was the glory of this country would also have to be introduced. There were no implied exceptions in the old Legislature, and there were, therefore, no implied exceptions in the new. Let them turn, therefore, and see whether there were any express exceptions and if there were, they were in the last act of Parliament. And here let him remind the House of the circumstances under which that act was passed. Rebellion was raging in the province, the local legislature would no longer act, and it was necessary, that some new power should be constituted for the purpose of restoring peace and harmony. For this purpose the bill was introduced, and it recited, that the Legislative Assembly of Lower Canada could no longer be called together, and, that it was necessary, that some other legislature should be established in its place; and the bill, therefore, created a new Legislative Special Council to be presided over by the Governor, and was it likely, that this new Legislature would be confined to "doing the mere routine business?" Was it to be supposed, that it had not the power to suspend the Habeas Corpus Act, or of keeping in prison those persons accused of treason, which it would not be expedient to bring to immediate trial? Would that be mere routine business? Was there to be this peculiarity between the two, that the new Legislature was not to have all the powers of the old, to enact such laws as might be necessary for putting down the rebellion. But the exceptions themselves showed what was the opinion of that and the other House of Parliament, that without these restrictions this Legislative Assembly would have had complete power to alter every English Act of Parliament; the exception provided, that it should not be lawful,—

> "By any law or ordinance to impose any tax, duty, rate, or impost, save only in so far as any tax, duty, rate, or impost, which at the passing of the act was payable within the said province might be thereby continued."

And also,—

> "That it should not be lawful by any such law or ordinance to alter in any respect the law then existing in the said province respecting the existing constitution of the Legislative Assembly, or the right of any person to vote at the election of any member of the Legislative Assembly, or respecting the qualifications of such voters, or respecting the division of the said province into counties, cities, and towns, for the purpose of such elections."

Why it must have been thought, that without these express exceptions the new legislative body would have had power to alter the franchise, and entirely to alter the law of the country, and the exceptions were introduced in the belief, that there was power vested in the altered Legislature. Then came the proviso which was wholly relied upon for the argument elsewhere, but was thrown overboard by that House:—

> Nor shall it be lawful by any such law or ordinance to repeal, suspend, or alter, any provision of any act of the British Parliament, or of the Imperial Parliament of Great Britain or of any act of the Legislature of Lower Canada as then constituted repealing or altering the same."

And if the second ordinance of Lord Durham had suspended or altered any British act of Parliament, such would have been illegal. Now, a noble Lord had elsewhere been supposed to have said but he believed, that he must have been misinformed, that the hon. and learned Member for Exeter, who had disclaimed any such idea, had intended to take away from the Governor and Special Council any power of altering, suspending, or interfering with any act whatsoever of the Parliament of Great Britain. Then his hon. and learned Friend must say that all Sir John Colborne's acts were illegal and that he had no power to declare it felony for a person to return to the colony after a pardon had been accepted; and if they adhered to the doctrine that the Governor in Council had no power to interfere with any British Act of Parliament, or to alter in any manner the criminal law, then they would reduce the power of Lord Durham to nothing, they would paralyse all his exertions and throw the whole province into confusion. What then was the history of the introduction of this last proviso, what was the real intention of introducing it, and what was the condition on which it was accepted? It was intended and accepted purely and exclusively to prevent the changing of the religion of the country, and preserve the tenures on which property was held, and to prevent all interference by the Council with the reserves for the clergy of the Established Church. These were the three points alone touched upon by the noble Lord the Member for North Lancashire, and by the hon. and learned Member for Exeter, who concluded his speech by showing that the new Legislative Council ought not to have the power of interfering with the religion, the tenures act, or the clergy reserves. Well, then, if it had been thought that the council under this act had no power of interfering with any Act of Parliament, why did they introduce this proviso? but it was thought to be necessary to put this limitation upon the powers, and the hon. and learned Member for Exeter had said on the conclusion of his speech, having enumerated those points and the reasons, that on those grounds he proposed that in the proviso in the clause under consideration there should be introduced the words "nor to suspend, &c.," and then his hon. Friend, the Under-Secretary for the Colonies (Sir George Grey) answering his hon. and learned Friend, said, "that if the amendment only applied to the acts he had stated, there could be no objection to it; but it might apply to others in such a way as to render its adoption inexpedient;" and the answer of his hon. and learned Friend distinctly was, "that his only object was to exclude from the operation of the clause such laws as he had particularized" [Sir *William Follett* "Read the remainder."] He had read the whole passage, and would read it again; the part that came after did not qualify what had gone before. His hon. and learned Friend had done him the honour to refer to something that had fallen from him in the debate; but if his hon. and learned Friend would tax his recollection, or turn to the printed account of what had passed, although, as he had stated, that account was not very accurate, yet his hon. Friend would find that his remark was confined to a suggestion of his right hon. Friend the Member for Coventry, that the Special Council should have a power to make permanent laws relating to local matters in Canada, some of which, especially relating to railroads, were stated to be better than those in England. To that he had stated, that there might be an objection; and with reference to that subject only had he made the observation. But in another printed account, which he believed to be more accurate, his concluding words were, that "as to the amendment of his hon. and learned Friend, Sir W. Follett, there could be no objection to it, if it were properly limited." If, therefore, the proposal were properly limited, there could not in his opinion be any objection to it; but if the object had been to prevent any alteration of any English Act he would have objected to it, because such a clause would wholly paralyse the Government. In what respect, howeve r did the ord nance alter any Act of the Parliament of the United Kingdom?—and to show what was intended, the words used were "the Parliament of Great Britain, or the Parliament of the United Kingdom." And why was this? Because the Act of 31 Geo. 3rd. was the Act of the Parliament of Great Britain, whilst the Act of Lord Ripon, passed in 1825, was an Act of the United Kingdom, and this was the reason why the clause was confined to the Acts of the Parliament of Great Britain and of the United Kingdom. All this showed the object of the introduction. He regretted that the proviso was not more precise; he should have been glad if the words had been any act "relating to the province of Lower Canada," but he said that it was implied that it referred only to Acts relating to that province. His hon. and learned Friend had talked much of the despotism of the Act; but although it was thought hard, yet it was deemed in the nature of the case necessary. The House and the country placing confidence in an individual had selected him to carry the Act into effect, and Parliament had been satisfied with trusting to the responsibility of that individual, and to Parliament calling him to account; and would his hon. and learned Friend, after the history of the manner in which this proviso had been introduced, and after the language of the Act itself, say that he introduced this proviso for the purpose of preventing the repeal or the alteration of any act of the Parliament of Great Britain? or that it should be confined to the province of Lower Canada? Now, it had been asserted over and over again that it applied not only to Lower Canada, but to all her Majesty's dominions. And if his hon. and learned Friend did put that limitation, did he say that it interfered with the Act of Lower Canada? Why, if he did, it would come to this, that there could be no alteration of the criminal law, either the statute or common law. The act of 14th George 3rd. had been specially referred to, but the eleventh section, which introduced the criminal law into the colony, expressly subjected it to such alteration as the Governor, &c., by and with the advice of the Legislative Council, should from time to time cause to be made therein; so that the very section introducing the criminal law provided for the power of alteration. It did not prevent any alteration, however great or fundamental such an alteration might be, but it provided only that this could not be done without the sanction of the sovereign. Therefore, under that act, when any ordinance making any alteration in the law, nay, if it abolished trial by jury altogether, and established any tribunal, however unconstitutional, met with the approbation of the Sovereign, it would take place under that Act. But the special council established by that Act was abolished by the 31st George 3rd.; the special council ceased after the passing of that Act, and all the powers passed from that time to the new Council. Then the criminal law, as it subsisted at that time, was to continue; but the Legislative Assembly had the full right to change such laws as the Assembly might from time to time think proper, not without the authority of the King; but after the passing of the 31st George 3rd. all the restrictions imposed under the Act of 14 George 3rd. were absolutely done away with, and the Assembly, subject to the King's assent, had the power of altering all the criminal laws as they liked. He had now dealt with the Act of Parliament, with the exception which had been introduced into it, and with the Act of 14th George 3rd., on which so much reliance had been placed, and he thought that those who looked at the Acts of Parliament, and would consider those matters attentively; setting apart all considerations of party, and only judicially deciding on the Acts of Parliament themselves, would come to the conclusion that the ordinance in point of law, so far as concerned the fifteen persons, if they should return to the province, was good and effectual; that it was a legislative Act; that it was the act of a legislative Assembly constituted without any restriction; for if there were no implied restriction, there were no express exception in the Act which had been passed. He had said, that he would confine himself strictly to the question of law, and he hoped that he had performed his promise better than his hon. and learned Friend, the Member for Exeter, who, in the course of his speech was constantly diverging to questions of policy and of expediency, anticipating the debate which would thereafter arise, when, having all the facts of the case before them, they should be called upon to say whether the powers given by this Act had been wisely executed, the only question now was, whether those powers had been exceeded. Beyond the limits of the province it was clearly inoperative; but with respect to those within the province, without giving any opinion as to the policy or the expediency of the ordinance, he had no hesitation in saying that he was clearly of opinion that it was legal; and when the time should come to consider its expediency and its policy, he had little doubt that it would be found to do credit to him who had devised it; it had been received with applause in the colony, its clemency had been admired in this country, and it had been condemned only by some persons who had minutely examined it with personal and political feelings. He regretted that those persons had had the indiscretion to introduce the subject to public discussion, being convinced that no benefit would be derived from this course. However, he regarded with satisfaction that due credit had been given to the motives and intentions of Lord Durham. The noble Lord the Member for North Lancashire had passed a just eulogium on Lord Durham's intentions, and the noble Lord had said, that the ordinance was so humane and so expedient, that if it were but legal, he would find no objection to it, and that his only doubt with respect to it, was, as to its legality; he (the Attorney-general) was not sanguine enough to hope that he had succeeded in making any impression upon the noble Lord; but it would indeed be a triumph if he should have been fortunate enough to have removed the single scruple from the noble Lord's mind. He trusted that he had shown the legality of the ordinance; and if it were humane and legal, it united within itself all the merits on which its expediency could be determined. He anticipated the most fatal consequences if it were doubted whether the Governor-general in council had the power to alter the criminal law. There was one point which he had omitted; he had promised to refer to some of the Acts of the province of Upper Canada bearing out his statements. Was it supposed that the Assembly of Upper Canada could alter any of the criminal laws, and was it intended that the same authority should not be possessed by the Assembly of Lower Canada? Would they say that in Lower Canada, where there was open rebellion, and of which the state was more alarming, the council should have less power. Then why had they suspended the Legislative Assembly of that province, and established a special council in its stead, except that more vigorous acts were required, and that more powers were necessary than in the assembly of Upper Canada? He would simply read the titles of some of these Acts as an argument to show that Lord Durham and his Special Council were not wholly incompetent to make the ordinance which had been the subject of debate. The first was an Act, the effect of which was, in fact, to suspend the Habeas Corpus Act, and to provide for the apprehension and detention of all persons suspected of treason. Chapter two was an Act to provide for the more effectual and impartial trial of persons charged with treason, and which altered the mode of trial, which had prevailed before it passed; and there was one Act which entirely abolished trial by jury, and substituted trial by a court-martial. Chapter three was an Act to protect the inhabitants of Upper Canada against lawless aggressions. The next statute to which he should refer, empowered the Government to try persons who were natives of a foreign country, and who should invade Upper Canada. Chapter nine was an Act to provide for the more effectual and speedy attainder of persons indicted for high treason, who should have fled from the colony. Did his hon. and learned Friend, the Member for Exeter, mean to say then—for the doctrines which he had laid down were of a most alarming nature—that he would question the legality of all these statutes, and of all Acts done under their authority? Another Act was, to enable the Government to extend a conditional pardon to offenders in certain cases, while there were a variety of others of the same character, and all of which had been passed by the Assembly of Upper Canada and had been copied by the Legislative Assembly of Lower Canada. He asked whether the Acts to which he had referred, could be distinguished from the ordinances of Lord Durham? The House might say that they were unconstitutional, but he defied them to draw any distinction in point of law between the ordinances of Sir John Colborne and those of Lord Durham. They could only find fault with the ordinances of the latter, because they altered the criminal law, which had been introduced into Canada;

if they were illegal on that ground, then were the ordinances of Sir John Colborne also illegal. But there was no pretence for saying that they were illegal, and he was ready to take his share of the responsibility which might be incurred by Lord Durham on the subject of this Act, believing that he possessed the power which he had employed, and that he had exercised it wisely and discreetly, and, besides, that he had been fully justified in departing from the criminal law as it existed in Canada before he went there, and in making it vary from the criminal law of this country. He sincerely lamented the necessity which existed for resorting to unconstitutional measures at all, and he looked forward with impatience to the time when all such means should cease to be employed, and when the law might be restored to undivided dominion. He was afraid that the time for re-establishing the law might be delayed by the discussion, but on the whole he was sanguine enough to hope, that Canada would speedily be restored to peace and tranquillity, the people would return to obedience, and the law be replaced in vigour.

Sir *E. Sugden* rose with great unwillingness to prolong the discussion on this question; but he should endeavour to do what he had done on all questions relating to Canada—go to its consideration without reference to personal or to party feeling. He would consider only the question as one of law. He owned that he was surprised at the course taken by the noble Lord (Lord J. Russell), and the hon. and learned Gentleman (the Attorney-General), in this question, in contending that the ordinance of Lord Durham was legal, except that which related to men out of the jurisdiction of the province. All the rest the noble Lord contended was legal, and that her Majesty's Government would act on it as such. How the noble Lord could make that declaration, and, at the same time, give his sanction to the bill then before the House, which declared, that the ordinance could not be justified by law—he quoted the words of the clause—he was at a loss to decide. How the noble Lord, as the representative of the Government in that House, could state, that he would uphold any part of an ordinance which an act of the Legislature would stigmatise as against law, was to him a matter of no little surprise. It was perfectly wild to discuss this question, unless the Government were prepared to say how they would proceed after the bill became law. These ordinances were accompanied by a proclamation, and, although the words were extremely ambiguous, its true construction, taken together, was, that everybody was pardoned; all offences for high treason, or for treasonable practices, except the persons named in those ordinances, who were to suffer for the crimes the punishments those ordinances affixed. Before the bill passed, the Government declared their intention to disclaim and disallow those ordinances. Those ordinances would, therefore, have no operation—they would have no continuing operation. The Governor-general had shown, by his most impotent acts, that he considered the operation of the ordinances to commence *instanter;* and here arose a difficulty which had not been provided for. The amendments, which had been adopted by the Government into their own bill, clearly showed, that it was not the intention of either branch of the Legislature to give those powers which had been exercised by the ordinances. The ordinances would cease to have operation, but, in the mean time, those persons would have undergone punishment; and the fifteen persons who, on putting their foot on their native land, would be found guilty of having done so, and executed for treason, without the slightest attempt at investigation or proof beyond the declaration of the ordinances. Then might come the declaration of her Majesty in Council, that the law should have no force, but that would not recall to life those who had been hanged before that declaration had been pronounced. It was certainly, therefore, rather important if they did intend such laws as these ordinances should be passed, to have provided that no ordinance which inflicted the penalty of death or transportation on any person contrary to law should be of any avail until it had received her Majesty's sanction. This afforded a very strong proof that there was no intention that the law, as construed by Lord Durham, should be put into execution. The Government must then address themselves to this question—the people of Canada and the people of this country must clearly understand it, and would expect an answer to it—how were they prepared to act in regard to those persons who were the subjects of the ordinances? It was considered necessary to the safety and well-being of Lower Canada, that these persons should be carried to Bermuda, and there detained during the pleasure of the Governor-general. The effect of disallowing the ordinances would be instantly to open the gates to them; they would be at liberty to depart from Bermuda, and to enter Canada the moment her Majesty's disallowance of the ordinance was transmitted to them through any source. What then did the noble Lord intend with respect to these persons? After what had passed they could not be taken before a jury with halters about their necks; no Government in existence dare have recourse to such a measure. By an illegal ordinance a penalty had been imposed on them which had been partly inflicted; but they must omit the remainder. Unless the Imperial Parliament interfered, they must be allowed to return, free of all apprehension, to Canada. The effect of the proclamation was, that every person was pardoned who was not suffering under the ordinances. There was to be no prosecution of any individual except under the ordinances; they could not, without the aid of the Imperial Parliament, prosecute any man out of the ordinances; in the ordinances they had disabled themselves from doing so. The fifteen persons, beyond all doubt or question, would be at liberty to re-enter Canada. Would the noble Lord be prepared, after what had passed, to try them by a jury? It would be a sort of judicial murder to take those persons before a jury after having convicted them of high treason and imposed on them only an inferior punishment to the immediate penalty of death. This was no case of amnesty or even leniency on the part of the Government. The Government were unable to carry the ordinances into complete execution, and the return of those persons to Lower Canada would take place in spite of the Government. They must look this difficulty firmly in the face, and say what steps should be taken, whether Government would enforce this particular part against those persons notwithstanding the ordinances had fallen to the ground. He had listened to the general tone of the debate on the other side of the House with some regret. He was sorry to hear such constant attacks upon somebody or other being actuated by personal and political motives. It was most difficult to conjecture to whom those observations alluded, but he thought it would be much more convenient if that noble and learned Lord's speeches were answered in another place, instead of reserving the reply for the leader of that House, to whom it seemed to be indeed "a labour of love." Undoubtedly it was contrary to the rules of that House to countenance such an irregular practice although it was covered so much by the noble Lord's intimate knowledge of their forms, as even to escape the notice of the Chair. With respect to the question immediately under consideration, he thought it absolutely necessary, that some measure should be adopted to meet the exigencies of the case. The noble Lord would take upon himself an awful responsibility if, short as the time was, he allowed Parliament to be prorogued without making some provision for the cases which must arise from pronouncing the ordinance to be illegal, and a still greater if he should write to Lord Durham to say, he had stated in the House, that he was prepared to justify carrying the remainder of the ordinance into effect. If Lord Durham had had a real council, as the House intended he should have, instead of a sham one, these evils would never have existed. There was no striking enormity in the ordinances of Sir John Colborne. They might possibly have been in some respects illegal, and he did not say that they were not, but in their illegality there was exhibited none of that outrageous violation of constitutional principles which characterized the ordinances of Lord Durham. The illegality was not so great as to strike at first sight, but the enormity of Lord Durham's ordinances was so great as immediately to strike the mind of every man, and suggest the idea of illegality. He had never attacked Lord Durham, and he did not mean to attack him. He believed, that in the issuing of these ordinances the noble Earl had been actuated by humane feelings, and that possibly he never intended, that they should be put in force. His intention was not to make them operative ordinances, but nothing could be more dangerous or liable to objection than the practice of taking steps upon the calculation that they would not be called for, and without any intention of acting upon them. As all these ordinances were disallowable by the Crown, it was the duty of the Colonial office to scrutinize them very narrowly, in order to see whether they were illegal. He was extremely unwilling to enter into the question of law, as whatever was said in that House upon points of law went absolutely for nothing. It was of no weight out of doors, but yet in distant places like Lower Canada it was likely to be productive of mischievous effects. The hon. and learned Gentleman opposite, her Majesty's Attorney-general, with an appearance of honest warmth, states that he would not condemn any man in his absence, and yet in the same breath he defended the legality of an ordinance which condemned fifteen men in their absence. He cheered when the hon. and learned Gentleman stated he would not condemn any man in his absence, at which no doubt the hon. and learned Gentleman was surprised. He also was surprised—but it was, to hear the hon. and learned Gentleman say the ordinance was perfectly legal, and yet, at the same time, express his willingness to have it rescinded. One word with regard to the manner in which the council was held at which this ordinance was passed. The forms prescribed by the Act had been neglected, although the noble Lord ought to know, that in many important cases, matter of form was also a matter of substance. How different from the manner in which Sir J. Colborne acted under the guidance of the same Act of Parliament. Sir J. Colborne mentioned even the minutest details. The number and names of those present, the business which was transacted, even the name of the chairman. He merely mentioned this to show, that there might be some pieces of information contained in documents which it might not be altogether convenient to communicate. None of Sir J. Colborne's ordinances were revoked. The House should recollect that Sir J. Colborne had a real council, consisting of twenty-one members. They should also not lose sight of this, that the council of five, on the very day of their appointment, met and sentenced eight men to transportation, and sentenced fifteen absent men to death. With reference to the rules and regulations, he should say they might be admirable for a real council, but a mere farce when applied to a domestic chamber like that which was appointed to advise Lord Durham.

Sir *C. Grey* said, that he did not see the difficulties attaching to this question to which the hon. and learned Gentlemen had alluded. If the ordinance and the proclamation were annulled, the parties affected by them would be simply remitted to the situation in which they formerly stood. He thought there would be no difficulty in trying those parties now, after the qualified admission of their guilt which they had made; and if they should be found guilty, after the opinion expressed in the ordinance that transportation was a sufficient punishment, it was out of the question that a greater punishment should be inflicted. Having heard from the noble Lord the Secretary for the Home Department, that it was not the intention of Government to introduce any other measure this Session, the desire which he had to offer a few suggestions to the House was exceedingly diminished, and he would therefore occupy but very little of their time. He must say, that in his opinion the ordinance of the Earl of Durham could not be justified as legal. The hon. Member for Westminster said the motives and feelings of the noble Lord in issuing this ordinance were cruel. Now, he was confident, that the hon. Member for Westminster and the noble and learned Lord with whom the objection to the ordinance had originated, were both mistaken as to the view with which this ordinance was made. [Mr. *Leader*, I did not describe the ordinances as cruel.] He was glad to hear that the hon. Member did not intend to use the expression "cruel;" but he was sure that the hon. Member had used the expression. He was confident also, that the hon. Member for Westminster was mistaken as to the effect of the ordinance with reference to the parties more particularly affected by it. He did not think, that those parties had any very great right to feel aggrieved. The question had been brought forward in such a pointed manner that it was necessary for Parliament to express its opinion on the subject. He thought, that it would be productive of much mischief if they left the matter in a state of doubt and uncertainty; he therefore felt, that it was necessary to pass a declaratory Act. His own opinion was, and had ever been since he had seen these ordinances, that they could not be justified. The principle of legislation on which legal ordinances could be enacted in this province must be in conformity with the powers contained in the 14th Geo. 3rd, c. 8, in the 31st Geo. 3rd, c. 31, and in the 1st Vic., c. 9. All these acts related specially to Canada, and the present Governor of that province and council could not, as the present legislative body for the colony, enact any law to repeal, suspend, or alter, any provision of any of these acts of the Imperial Parliament. These ordinances were in some respects inconsistent with these acts, and with that protection which every British subject was entitled to claim under the provisions of these acts as well as other laws. His impression was, that the Governor in council in Canada had not the power of altering acts of Parliament applying to this colony. He might be told, that the noble Earl and council had the general power of making laws, but this was a different thing when any restrictions existed, such as had been imposed by the 31st of George 3rd, c. 31, or by the 1st of Victoria, c. 9. In the latter act, a proviso had been introduced by the hon. and learned Gentleman opposite, which materially affected the case. It never would do to allow an alteration of these laws to be made, as was done in the ordinance, as these laws were fundamental in their nature. Such laws, he contended, could not be altered in the colonies, even with the sanction of the Crown. For instance, it would not be lawful to transfer the allegiance of Canada from this country to France. This would not be legal, even if it were authorised by the legislative body in the colony, and sanctioned by the Crown. It would require a higher sanction to make it lawful and binding. This principle, also, existed with regard to other matters. For instance, it was always the case as regarded the rights of trading with the colonies; neither the legislative assemblies of Canada nor the Crown could exclude British subjects from trading at any port in the St. Lawrence belonging to that province. This principle also obtained, with regard to the right of a person charged with an offence to be tried. Was the right of trial by jury of less importance than the right of trading. Under these circumstances, therefore, he looked at the ordinance as being a most arbitrary edict. He did not doubt, that there were very good reasons for establishing in the mind of Lord Durham, a certainty that these persons were guilty of the offences with which they were charged, and that they had acknowledged their guilt; but, looking to their denial of the fact, it was as much an arbitrary edict as if the former or present legislative power in Canada should order a person to be put to death without trial. This would be a departure from the fundamental law creating the legislative power, and would be going beyond it. A similar principle restrained every legislature, and there was even, as regarded the Imperial Parliament, a power beyond which it could not go. In the present ordinance, there was a principle embodied somewhat like that which was to be met with in the proceedings of the British Parliament in the cases of bills of pains and penalties and bills of attainder. The Legislature of Canada had never been a judicial tribunal, and could not pass such a bill, and therefore the power could not be possessed by the present Legislature for that colony, namely, the Governor in council. The old legislative body in that colony never possessed the power of passing bills of attainder, and as the new body had not enlarged powers conferred upon it, but was restrained by the same Acts of Parliament that restricted the former body, it could not have that power. He therefore, without hesitation, contended that the former Legislature of Canada could not legally have passed these ordinances of Lord Durham, and therefore, that that noble Lord had not power to do so. In the whole history of the Imperial Parliament he had never found an instance which would serve as a precedent for this ordinance. He had heard a great legal authority, a man of profound learning and the greatest attainments declare, that the only case that he could find, that would furnish anything like a precedent, was the 17th George 2nd, by which it was declared, that the sons of the Pretender should suffer death if they landed in any part of England. But it should be recollected, that in this case the sons of the Pretender were not British subjects, and were not recognized by the Parliament as having any right, power, or authority in this country. The birth of the Pretender was disputed, and his sons were considered as aliens, and, having set up an adverse claim to the throne, under the influence of France, then at war with England, they were declared traitors, and ordered to be dealt with accordingly. They having neither sovereign power, nor being British subjects, having endeavoured to subvert the peace of the kingdom, were by this Act declared liable to suffer death as traitors. It had even been considered a clear and undoubted right of a British subject to return to his native land, unless he had been legally tried and convicted, and was sentenced to be banished from it by the proper tribunal. In this case it was undisputed that no trial had taken place. It was alleged that the act of attainder of Sir John Colborne was a precedent for this ordinance; but he contended, that the proceeding of that gallant officer was not an act of attainder, but was merely an act for the more speedy trial of persons charged with treason. There were no names mentioned in this act, and who ever heard of an act of attainder which did not contain the names of the persons against whom it was directed. The law of Sir John Colborne was simply one for shortening the mode of indicting persons charged with treason. Suppose that Mr. Papineau was arrested in the province and brought before a tribunal under this ordinance, the first thing that he would say, would be to ask, whether it was not distinctly stated in the act under which their proceedings took place that no act of the Imperial Parliament should be suspended? He would be answered in the affirmative, and he would state, that under the 14th of George 3rd, c. 8, the form of trial was strictly enforced to be similar to that in England. The answer of the court might be, that that was suspended as far as regarded the fifteen persons named in the ordinance. He would then refer them to the proviso of the 1st of Victoria, c. 9. which would be a complete answer to this objection. It was therefore, clearly his opinion, that this ordinance should not be vindicated by the 1st Victoria c. 9. But although he considered it to be an excessive ordinance, and that in bad hands it might be abused, he was sure that it was far from the intention of the noble Lord who framed it, that it should be harshly administered, and he believed that the effect of it would have been found to be, that it would have had too much leniency towards the parties engaged in the insurrection. He should regret extremely, if this bill should have the effect of weakening the local government, but he trusted that such would not be the case. The evil in this case might be irretrievable, but after the majority of the other House had expressed an opinion on this subject, it was beyond the power of the Government to refrain from pressing this bill. At the same time he thought, that if Parliament were called upon to express an opinion as to the conduct and intentions of the noble Earl, the Governor of Canada, that it would prove extremely satisfactory to him. Before he sat down he felt called upon to say a few words as to the banishment to the Bermudas. He did not conceive, that there was much objection to the ordinance on this ground, or that it would be sufficient to set it aside. The two Acts that related to the punishment of transporting or banishing from the colonies were the 5th Geo. 4th, c. 63, and the 6th Geo. 4th, c. 59. Now it did not appear to him that it was necessary that parties should be arraigned to receive pardon. It had ever been the case that persons on acknowledging their guilt had received a conditional pardon. This was the case in the order of Sir John Colborne, who, in reference to certain parties, declared that they received this conditional pardon, namely, that they should consent to suffer transportation for a certain period. In this case the parties, as he understood, had confessed their guilt, and had accepted pardon on condition of banishment. He therefore thought, that under the stipulations and enactments of the 6th Geo. 4th c. 59, the governor of the colony was not restrained from transporting those persons. He contended, that it would be perfectly legal if the Bermudas were named in the order of council framed in uniformity with the act, and if they were not so named, these persons could remain in the custody of the Queen's officer under whose care they were until such order was issued. He did not rest his objection to the ordinance as it applied to the transportation to the Bermudas, but to that part of it which applied to the fifteen persons who were told that warrants were out against them for treason, and that if they returned to the colony they would be put to death under the provisions of that ordinance. The last part of the ordinance also appeared to him to be irregular and liable to the strongest objections, namely, where it was declared that no order or pardon of her Majesty could extend to any persons supposed to be engaged in the murder of Lieutenant Weir or Joseph Bertrand, nor shall any of them derive any benefit or advantage whatsoever from any proclamation of her most gracious Majesty, nor shall any amnesty thereby intended to be granted, be taken in any way to apply to such person or persons or any of them. He did not think, that the Governor of Canada could prohibit her Majesty from granting pardon, and therefore this perhaps was another reason for getting rid of the ordinance. He entertained the most serious respect for the noble Earl at the head of the Government of Canada, and he had no doubt, that it was the anxious desire of the noble Earl to rescue the people of Canada from the gulf of misery which must ensue from their continued insurrection, and that it was his most earnest wish to restore peace to the colony; but he felt on every ground, that it was both expedient and proper that they should get rid of the ordinance, and pass this bill.

Sir *R. Inglis* said, that his object in rising was to call the attention of the House to the consequences that would result if the bill were left in its present state. If her Majesty, by an order in Council, were to rescind the ordinance without rescinding the proclamation, it would prevent the criminals from suffering the just punishment for their offences, as no one could doubt (not even the hon. Member for Westminster) that offences of a heinous nature had been committed; and he would, therefore, suggest, but he did not wish to influence the vote of any hon. Member, the expediency of introducing a clause into the bill, providing, That nothing in the ordinance issued in Canada, or in the Order in Council, disallowing that ordinance, shall be construed into a release of any person from the legal punishment attendant on his crimes, but that he should be equally accountable as before the passing of the ordinance. He did not agree with the noble Lord opposite, that the other House would reject such a clause, but he would recommend the noble Lord to remove the responsibility from himself. The noble Lord, the Member for North Lancashire, had urged a measure of this description upon the Government, and he was sure, that the course which he now recommended would be supported by that House and by the country. He had urged this on the Government before, and he again called on the noble Lord not to allow Parliament to be prorogued without some measure of this description being passed; for, without such a measure, he feared, that the security of one of the most valuable possessions of the Crown would be hazarded. He allowed that even the discussion of this subject was not unattended with danger, and that it might prove ruinous, but he could not avoid complaining of hon. Members on the opposite side of the House who had accused hon. Members on his side with being actuated by party motives in the course they had felt it their duty to adopt. It was impossible for him to move such a clause as he had suggested, but he again urged the noble Lord to adopt it, and to frame it to suit his own views; but he sincerely trusted, that Parliament would not be prorogued before some declaratory act was passed, so as to remove the doubts which existed in regard to the law in Canada.

The *Solicitor-General* fully concurred in the opinion which had been expressed by his hon. and learned friend the Attorney-general, that so much of the ordinance as related to Bermuda was illegal, and that the rest was perfectly legal. He should not, however, discuss that point now, and should only offer some reply to an observation of the hon. and learned Member for Ripon. That hon. Member had said, that by the language of the Act, the Government admitted, that the whole ordinance was illegal. They admitted no such thing, and he believed nothing could be more prejudicial than that it should go forth, that the Government and that Parliament admitted the whole of the ordinance to be illegal. The Act stated nothing of the sort; and he was astonished that the hon. and learned Member for Ripon should have made such a statement. They allowed, that there was something illegal in the ordinance, but it did not follow that the whole of it was illegal. The hon. and learned Member for Exeter had said, that when the Parliament granted certain powers to Lord Durham they had not given him more than the ordinary powers of legislation. He granted that, but those ordinary powers were to be exercised under extraordinary circumstances, and sufficient allowance had not been made for the proceedings of Lord Durham when those circumstances were considered. The hon. and learned Member for Exeter had also said, that there was no precedent for such a penal enactment as had been issued against M. Papineau and others. But did the hon. and learned Member forget the case of the Bonaparte family in France, and that of the family of the Pretender in this country? Was the Act of the 13th and 14th of William 3rd passed after investigation and after mature deliberation? No; that Act passed both Houses in the course of ten days after its introduction, and he contended, that the shortness of the time which the Special Council had taken to investigate the conduct of those to whom the ordinance referred was no valid ground of objection against that measure. This part of the ordinance had been treated as something barbarous and inhuman; but what, after all, did it amount to? It amounted simply to this, that Lord Durham being in Canada, and surrounded with difficulties, had said, that those persons to whom the ordinance related should not come within the colony for the space of four years. That was the limit of the ordinance, for its effects extended to no more distant period than four years; but that fact had not been sufficiently kept in view. He thought it unfortunate that the present discussion had taken place, as he was afraid that it would tend to embarrass Lord Durham in the difficult duties he had to discharge.

Mr. *Ellis* said, that the noble Lord, the Member for North Lancashire, towards the conclusion of his able speech, had strongly recommended the noble Lord, the Secretary for the Home Department, if the Government thought that either any doubt existed as to the Canada Act itself, or any idea that some measure should be adopted for superseding the ordinary tribunals of justice in that colony, not to lose an hour, much less to entertain the notion of proroguing Parliament until a bill had been introduced and passed upon those subjects. The Secretary of State for the Home Department had observed in reply, that himself and colleagues had given the matter their best attention, and that a noble Friend of his in another place had endeavoured to embody certain words in the present Indemnity Bill with that view, and that his noble Friend had subsequently assured him, that there was no hope of the other House of Parliament agreeing to such a course. On the import of those certain words the hon. and learned Member for Exeter had dwelt with considerable force, and he felt persuaded, that whether in an early or a late period of the Session—in a full or a thin attendance of Members—the noble Lord would never have succeeded in carrying such a clause in that House. But he felt quite certain, that if, after a Cabinet deliberation, the noble Lord had come down to that House without any formal notice, and, without any prefatory remark to make out the necessity of the case, had moved the insertion of such a clause, and immediately after moving it had almost as speedily withdrawn it, without dividing the House, without going through the form of having a simple negative given for the purpose of getting the same entered upon the journals, Parliament would not under such circumstances have considered the Government very anxious about the fate which would attend the result of their Cabinet Council. He, therefore, thought the noble Lord was not justified in alluding as he had done to the House of Lords, and he was sure, that upon a proper case of emergency being now made out by the Ministry, the Opposition in either branch of the Legislature would yield their ready support.

Colonel *Sibthorpe* thought the country was much indebted to the noble Lord, the Member for North Lancashire, for the manly and able show-up which he had given the conduct of the Government, and was fully of opinion, that Parliament ought not to be prorogued till a declaratory bill had been passed. With all respect for the Earl of Durham, he considered, that noble Lord the most unfit person who could have been selected for such a situation as Governor-general of Canada.

Lord *J. Russell* rose to give an answer to the suggestion which had been made by the hon. Baronet, the Member for the University of Oxford. It was after mature reflection, that he had come to the decision to pass the bill under consideration as it stood, and without adding any clause of the nature suggested by the hon. Baronet. He had been accused of having said something derogatory to the other House of Parliament, but in the decision he had come to on the point he had been strongly influenced by the opinion which had been expressed by a high authority in the other House, that under all the circumstances, and particularly at so advanced a period of the Session, it would be better not to adopt the course which the hon. Baronet had recommended.

The House went into Committee, and having gone through the clauses of the bill, the House resumed. The bill reported without amendments.

REGISTRATION OF ELECTORS.] The Order of the Day having been read for the consideration of the Lords' Amendments on the Registration of Electors Bill,

Lord *J. Russell* proposed to agree to all the amendments up to that on the clause relating to the computation of distance. In regard to that amendment he should propose, that the House should disagree, and that so much of the clause as related to distance, and which was not in the original bill, should be omitted altogether.

Motion agreed to.

Lord J. Russell moved, that Clause B, introduced into the bill by their Lordships, be expunged.

Lord *Stanley* supported the clause which he admitted, however, might have been worded in a more satisfactory manner. Without this clause, he contended, that individuals would be rendered subject to a penalty for endeavouring to enforce the law, by appealing against the right of electors, whose votes were invalid, to have their names retained on the registry. The amendment of the Lords went to explain the law.

The *Attorney-General* would rather see the bill again lost than leave in it this clause, which would have the effect of disfranchising thousands of voters whose names had been put upon the register after most solemn decisions.

The House divided on Lord John Russell's motion:—Ayes 43; Noes 25; Majority 13.

List of the Ayes.

Adam, Admiral
Aglionby, H.
Archbold, R.
Bernal, R.
Brotherton, Jos.
Bryan, G.
Campbell, Sir J.
Cave, R. O.
Chalmers, P.
Ebrington, Lord
Finch, F.
Grey, Sir C.
Grey, Sir G.
Hoskins, K.
Howard, P. H.
Howard, Sir R.
Howick, Lord
Leader, J. T.
Lefevre, C. S.
Lushington, Dr.
Macleod, R.
Maule, W. H.
Morpeth, Lord
Morris, D.
O'Ferrall, R. M.
Palmer, C. F.
Power, J.
Price, Sir R.
Pryme, G.
Pryse, P.
Rice, rt. hon. T. S.
Rolfe, Sir R. M.
Russell, Lord J.
Salwey, Colonel
Sanford, E. A.
Stanley, E. J.
Stock, Dr.
Style, Sir C.
Thomson, C. P.
Thornely, T.
Vigors, N. A.
Wilde, Sergt.
Wood, C.
TELLERS.
Parker, J.
Steuart, R.

List of the Noes.

Acland, T. D.
Attwood, W.
Bentinck, Lord G.
Bramston, T. W.
Chute, W. L. W.
Darby, G.
Douglas, Sir C. E.
Ellis, J.
Follett, Sir W.
Gordon, hon. Capt.
Henniker, Lord
Hodgson, R.
Hotham, Lord
Inglis, Sir R. H.
Kerrison, Sir E.
Lygon, hon. General
Meynell, Capt.
Parker, R. T.
Round, J.
Sibthorp, Colonel
Stanley, Lord
Vere, Sir C. B.
Verner, Colonel
Wodehouse, E.
Wood, T.
TELLERS.
Fremantle, Sir T.
Holmes, W.

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HOUSE OF LORDS,

Wednesday, August 15, 1838.

Minutes.] Bills. Received the Royal assent:—Building Act Amendment; Church Dignities Suspension; and Tithes (Ireland).

Petitions presented. By Viscount Melbourne, from Bristol, and Manchester, against the Beer Act.

Registration of Electors.] A conference took place with the House of Commons on the Registration of Electors Bill, and it was reported to the House, that the Commons had agreed to some of the Lords' Amendments and disagreed to others.

Viscount *Melbourne* said, that the Commons, not being willing to agree to the Lords' Amendments with regard to the boundary clause, had struck it out altogether. He moved, that the Lords do not insist on their Amendments.

Lord *Lyndhurst* objected to the Amendments made by the Commons as to the registration and trustee clauses, and insisted upon the necessity of their Lordships persevering in the Amendments which they had made on these two points.

The House divided:—Contents, including proxies 58; not-contents 88: Majority 30.

List of the Contents.

DUKES.
Argyll
Norfolk
Sutherland.
MARQUESS.
Lansdowne.
EARLS.
Albemarle
Gosford
Effingham.
Ilchester
Thanet
Fingall
Minto.
VISCOUNTS.
Melbourne
Falkland
Lismore
BARONS.
Seaford
Holland
Saye and Sele
Glenelg
Strafford
De Mauley
Gardner
Foley
Sudeley
Seaford
Langdale
Barham
Dinorben.
BISHOP.
Hereford.

Paired off.

FOR.	AGAINST.
Vernor	Stuart de Rothsay
Lilford	Salisbury
Methuen	Cowley
Leinster	Wicklow
Montfort	Reay
Conyngham.	Tweeddale

Proxies in favour of Commons clauses 30.

The Amendments were insisted upon.

A conference was had with the Commons, and the bill left with them, with their Lordships' reasons, for adhering to their Amendments.

TIN DUTIES.] Viscount Melbourne moved the third reading of the Tin Duties Bill.

Lord *Lyndhurst* opposed the bill. George the Fourth and William the Fourth had both refused to assent to such a proposition, and he thought it, at the least, rather extraordinary, that the very first year of the reign of a young Sovereign of only nineteen years of age, and a female, should be selected for carrying it into effect. He would move, that the bill be read a third time this day three months.

Viscount *Melbourne* said, that he never would have advised the Crown to consent to this bill, if he did not believe, that the rights of the Crown were well secured. The only object of the bill was to get rid of the evils and inconveniences of the present unpopular and difficult system of collecting the revenue of the duchy of Cornwall, and it was because the bill did effect a remedy of those evils and inconveniences, that he supported it. He gave the noble and learned Lord full credit for the delicacy of his feelings, but he thought it was carrying that delicacy too far to say, that they should not alter or reform an obnoxious system unless the Sovereign was of an advanced age and consented to it. He trusted, that the bill would be read a third time.

The Duke of *Wellington* said, that it was absolutely necessary to proceed with great caution in a measure affecting such interests as were affected by the present bill. He could confirm the statement of his noble and learned Friend with regard to the two preceding Sovereigns; he had served them both, and he was sure, that they would never have given their consent to the adoption of a measure of this description. He could see no reason whatever for proposing this measure at this period of the Session.

The Marquess of *Lansdowne* said, that the simple object of this bill was to put the revenues of the duchy of Cornwall on a more secure footing, and to render the collection of them less difficult. He trusted, therefore, that their Lordships would not reject the bill.

The House divided:—Contents 27; Not-contents 26: Majority for the third reading 1.

List of the CONTENTS.

DUKES.
Norfolk
Argyll
Sutherland.
MARQUESS.
Lansdowne.
EARLS.
Thanet
Albemarle
Effingham
Minto
Gosford
Fingall
Ilchester.
VISCOUNTS.
Melbourne
Falkland
Lismore.
LORDS.
Foley
Saye and Sele
Strafford
Langdale
De Mauley
Sudeley
Seaford
Denman
Glenelg
Holland
Cottenham
Barham
Calthorpe.

Paired off.

FOR.	AGAINST
Vernon	Stuart de Rothsay
Lilford	Salisbury
Methuen	Cowley
Gardner	Forester
Dinorben	Tenterden
Montfort	Reay
Conyngham	Tweeddale
Leinster	Wicklow
Bp. Hereford	Ripon.

Bill read a third time.

HOUSE OF COMMONS,

Wednesday, August 15, 1838.

MINUTES.] Petitions presented. By Mr. AGLIONBY, from a district in Ireland, for the Immediate Abolition of Tithes; and for an Alteration of the law between Landlord and Tenant in Ireland.—By Mr. LABOUCHERE, from the Licensed Victuallers of Taunton, not to consent to any measure for Altering the law relating to the Sale of Beer.

CANADA—.DECLARATORY AND INDEMNITY BILL.] Lord John Russell moved the Order of the Day for the third reading of the Canada Government Declaratory and Indemnity Bill.

Mr. *Leader* hoped before the bill was read a third time, that the House would allow him to say a few words with respect to certain misrepresentations which had appeared in the newspapers of that morning; and also to ask what were the intentions of the noble Lord with respect to the twenty-three unfortunate men who were proscribed under the ordinance of Lord Durham. The hon. Member for Lambeth (Mr. Hawes), in the newspapers of that morning, was made to charge him with a breach of friendship, and he believed also with a breach of confidence, in what he had said respecting Mr. Charles Buller. As to any breach of friendship, his acquaintance with Mr. Buller commenced on political grounds, and when at last they unfortunately differed on many political questions, it almost entirely ceased. However, if he had been on the most intimate terms of private friendship with Mr. Buller, he confessed that, in his opinion, private friendship ought to yield in every instance to public duty. In that House almost every Member was in the habit of calling every other Member his noble or hon. Friend, and it certainly was amusing sometimes to hear the language of these noble and hon. Friends to one another. He confessed that he had not so light or loose a notion of friendship as to be able to treat it in that manner. As to any breach of confidence, he was sure the hon. Member for Lambeth had no intention to attribute that to him, and no one who knew him would do so. The real fact was, that if any breach of confidence had been committed, it was committed by the person who sent the letter of Mr. Buller, or rather extracts from it, *The Morning Chronicle*, rather than by him. In the absence of any official information from the Government, he was compelled to take the best information he could from any quarter, and that extract from a letter in the Government paper *The Morning Chronicle*, seemed to him to be the most official document he could come at. There was also another misstatement in the papers, no doubt unintentional, with respect to what he (Mr. Leader) said as to Mr. Buller's intercourse with Mr. Thom, the bloodthirsty (he could not use any other expression) editor of *The Montreal Herald*, who advised that Papineau should be assassinated. Now, the papers made him state, that Mr. Buller was in constant communication with this man. He really said no such thing. He knew not whether they were in communication or not. All that he did was to read an extract from *The Montreal Herald*, stating on the part of the editor, that he had had a conversation with Mr. Buller, and was in communication with him. Of the fact he knew nothing whatever. There was another incorrectness in the statement of the hon. Member for Lambeth as to the state of Lower Canada at this moment. He said, that he had had a conversation with many of the Canada merchants in London, and that was the description they gave of it. Now, he would give the hon. Member one fact, which alone was of much more value than the assertion of these merchants, In former years there had been as many as 14,000 or 15,000 emigrants into Upper and Lower Canada, whilst in the last year there were but 1,200. In short, the accounts he had received of the state of the province were, that distrust, discontent, and great distress existed there. These were the inevitable consequences of an unsuccessful insurrection, and he was heartily sorry for it. Another hon. Member had asserted that he had charged Lord Durham with being cruel and inhuman. He said no such thing; but he had stated, that the effect of Lord Durham's ordinances was to perpetrate cruelty and inhumanity. The hon. and learned Member, the Attorney-general, had asserted, that he had committed a great blunder in confounding legislative and executive Acts. He had done no such thing; but he had asserted, that irregular acts had been committed. It would have been well for the Ministers—it would have been well for the Attorney-general—it would have been well for Lord Durham, and, still more, it would have been very well for the country, if the Attorney-general had had a little conversation with the noble Earl before he left this country, and explained to him the difference between legislative and executive acts. He believed he had answered all the mis-statements, and he now begged to ask the noble Lord what his intentions were relative to the twenty-three unfortunate men who had been proscribed by these ordinances, the eight who had been sent to the Bermudas, and the fifteen who were condemned to death if they returned to the colony. After what had passed, it was impossible that the Government could presume to try these men by a jury, because it had been distinctly stated by the hon. Gentleman opposite, that such a mode of trial would in point of fact, amount to nothing more nor less than a judicial murder. It had been distinctly declared, that it would be an act of the grossest injustice and cruelty to attempt to try them by a tribunal of this kind. It would be equally bad to punish them without trial. What, then, did the Government intend to do with them? He thought that, under all the circumstances, the best thing that could be done, would be to leave them unmolested; for this reason, that the Government must be weak indeed, if it could be overturned by the efforts of twenty-three private individuals.

Mr. *Hawes* did not impute to the hon. Member any breach of confidence, but he had alluded to what he considered the bad taste of using quotations of letters, without being signed or in any other way authenticated in that House, and he retained the same opinion still. He had had an opportunity of seeing some of the first firms in the city of London that day, and he was happy to say, every word of what had fallen from him as to the state of Lower Canada was fully borne out. There was but one opinion amongst the whole of the merchants engaged in that trade as to the policy of Lord Durham—they thought it was the wisest that could have been pursued. Widely different was their opinion with respect to the recent discussions upon the subject—they thought that the annulling of these ordinances and the interference with the authority of Lord Durham, was almost calculated to risk a second rebellion. They regretted also, that the noble Lord at the head of the Government had not shown upon this subject the same spirit as the noble Lord the leader of the Government in this House.

Lord *J. Russell*, as to the question withwhich the hon. Member for Westminster concluded, about the twenty-three persons affected by the ordinance, begged to decline giving any answer.

Order of the day read. On the question that the bill be now read a third time,

Dr. *Lushington* was anxious, before the bill passed into a law, to express in a few words the opinions which he entertained with respect to it. If it depended upon his sole vote it never should pass into a law at all, and his reason would shortly be, that he was not in the least degree satisfied, after all the discussiont hat had taken place on both sides of the House, that there had been any violation of the law. He had heard some of the debates in another place, and last night he had listened most attentively to the speech of the hon. and learned Member for Exeter, and he could not but remark that he spoke with extreme caution: he carefully avoided giving expression to any opinion by which he might be bound hereafter, whatever course he might be called upon to take. He did not lay down in what particular this measure was a violation of the law. If there were any man in the House (and he was speaking in the presence of the hon. and learned Gentleman) who, if he had formed a clear and decided opinion that this measure was a violation of the laws of the land, would and could have stated its illegality in terms impossible to be misunderstood, that man was the hon. and learned Member for Exeter. The hon. and learned Member's hesitation made him (Dr. Lushington) doubt, and that doubt would have made him ponder and consider well before he would venture to come to a conclusion upon such a discussion as he had heard there or elsewhere, that there had been a violation of the law. But when he considered the discordant opinions that had been expressed—when he found the hon. Baronet the Member for Tynemouth (Sir Charles Grey), perfectly conversant with the whole of the affairs of Canada, having the Acts of Parliament at his fingers' ends, quoting chapter and verse, pronouncing that to be legal which the bill pronounced to be illegal, and declaring in his opinion the power of transportation to the Bermudas did exist—then he wanted to know whether it was not his duty to hesitate before he pronounced a clear and decided opinion. Again, when he looked to the other part of the question relating to persons not in custody, there was the same discrepancy of opinion. But suppose he did not entertain a doubt upon the subject, was he, therefore, to vote for a bill of indemnity? Never—never. He could well remember the day and the hour when the Habeas Corpus Act was suspended, there was no bill of indemnity then. He deemed bills of indemnity at that time, and he deemed them now (and in this he agreedwith the learned Lord Chief Justice) a violation of the liberties and the rights of the people. If a man suffered from a violation of the law he ought to have his remedy. Had he forgotten the day when men who wished to be put on their trial were incarcerated from year to year, and afterwards, when the suspension of the Habeas Corpus Act was at an end, were deprived of the right of asserting their innocence, and of being indemnified for the loss to which they had been wickedly subjected? Never would he depart from these principles. Rather would he have it said, that action upon action had been brought against all concerned, whatever might be the amount of the loss resulting from such a course of proceeding. If that loss were incurred for the general safety and security of the people, it was the duty of the people to bear the burden of it. But he agreed with his hon. and learned Friend the Attorney-general, that in this case it was the mere transient image of a loss; and that no jury, looking to the circumstances of the case, would view it otherwise than an act of mercy to the parties. One word more as to the Earl of Durham:—If he had erred in his apprehensions of the law, whose fault was that? If the Earl of Durham had no clear notion of the law, who ought to have? The Lord Chief Justice of England? The Lord High Chancellor? a noble and learned ex-Chancellor? the learned Gentleman the Member for Exeter? or the hon. Baronet the Member for Tynemouth (Sir C. Grey)? Amidst the conflicting opinions of all the legal authorities, was Lord Durham to be blamed for ignorance of the law? Seeing how much these high authorities differed upon the subject, he doubted whether, if Lord Durham had been attended by a legal adviser, he would ever have found the right way at all. If Lord Durham were ignorant of the law, was the blame to rest upon his shoulders? Not at all. If Lord Durham were ignorant upon this point, it was evident that his ignorance was shared by the great body of legal authorities in this kingdom. Then, as to the unconstitutionality of Lord Durham's proceedings. What was it that he was accused of? Was it want of mercy? Was it want of consideration for the lives of the people? He approved not of the form of these ordinances. But he looked to their essence — their substance — he knew nothing of the circumstances which rendered them necessary—he knew not what justified them, and he knew there must be strong cause to justify them; but he believed that Lord Durham would not exercise the full force of his authority without sufficient reason. He knew Lord Durham well—he knew (though doubtless he had his faults) that he had great talent, that he possessed high courage, the nicest sense of honour, and the highest intellect. One thing he honestly hoped, that, notwithstanding all the attempts which had been made there and elsewhere to discourage and discomfort Lord Durham's government, to weaken his power, and lessen his moral influence, to deprive him of the means of conferring the great blessing of peace upon Canada—notwithstanding those attempts, he hoped that Lord Durham, knowing and feeling the great duties with which he was intrusted, would rise superior to the provocations he had had, and encounter and deprive his enemies of that which would be a victory to them, but a misfortune to the country, as well as a diminution of his fame and honour, by continuing at his post and persevering in his endeavours to give to the distracted colony that peace and security which he, with his known love of liberty and attachment to the principles of freedom, was better calculated to effect than any other man in her Majesty's dominions. These were shortly his sentiments. He wished it to be remembered that he did not defend the form of this ordinance. But in the case of a colony just emerging from rebellion, and where it was impossible to follow the ordinary course of justice without perpetrating injustice — where, in observing the forms of justice, they would be doing nothing but injustice—in such a case he could understand that for peaceful and national and sound purposes Lord Durham might have had recourse to such a measure as that which they were discussing. The last observation which he had to make was this: that his jealousy was always excited when he saw a government of any kind first exerting the powers which properly belonged to it, to the utmost extent and severity which the law allowed, and then either exceeding the powers of the law or calling for further powers to increase the severity. But when he saw that the Earl of Durham had not, to his knowledge or belief, shed one single drop of blood—while he saw a reasonable prospect that the pacification of Lower Canada would be effected in a manner which he deemed most desirable, namely, without shedding one single drop of human blood—and while he thought that that one consideration surpassed all other considerations, whether as preventing more of human suffering or as supporting for ever after the cause of human happiness—while he saw that the prevailing sentiment of Lord Durham's Government was to allay those feelings of irritation, indignation, and revenge, which, if allowed to exist, might tend thereafter to disturb the peace of the colony—while he saw these things, then his belief was, that the Earl of Durham, rising superior to all those impediments that had been thrown in his way, and relying solely on his native integrity—and there did not exist a more straightforward or honest man in the kingdom—would still be the saviour and protector of that colony.

Mr. *A. Sanford* was opposed to the bill, and said that instead of giving it his assent, he should give it his strongest and most public reprobation. He conceived it to be impolitic, unjust, and unnecessary, and that it was fraught with the most mischievous consequences; for if this bill should pass it would be impossible to oppose a similar measure on any future occasion, however tyrannically those might have acted to whom great powers had been given.

Lord *Ebrington* agreed with his hon. and learned Friend the Member for the Tower Hamlets in all that he had said upon this occasion, and particularly with respect to the conduct of Lord Durham, with whom he had enjoyed a long acquaintance, and who was as incapable as any man in that House, of deviating from that course which his attachment to the principles of liberty would always point out to him. He never had occasion to give a vote with such pain as he should give his vote on the present occasion. But, after all he had heard on the subject, and particularly after the speech of his noble Friend (Lord John Russell), and the admissions made in the course of that speech, he could not feel justified on the whole, in refusing his assent to the bill, although he deeply and fervently deplored, that the question had ever been brought forward. Those who had brought it forward had, in his opinion, incurred a deep and heavy responsibility for the mischief which its discussion must, in his view of the subject, bring upon the colony itself, and also with respect to its connection with this country. His noble Friend (Lord J. Russell) had shown no disposition to shrink from his duty in supporting Lord Durham, and in sharing with him whatever responsibility might belong to the course which had been taken; and in consequence of the reasons which had been urged by the Government for adopting this measure he could not bring himself to refuse his assent to it. He would humbly suggest to his hon. Friend who differed from him and the noble Lord on this subject, that it would, perhaps, tend more to weaken the authority of Lord Durham and add to the embarrassment, as well of the Government as of Lord Durham himself, if, under all the circumstances of the case, a division should be taken and a difference of opinion be shown among those who sincerely wished well to both parties, privately and publicly, upon this question.

Sir *Edward Codrington* was so strongly opposed to the bill, that notwithstanding the reasons that had been urged against coming to a division upon it, if any hon. Member would move its rejection he would give him his support.

Lord *John Russell* must request his hon. and gallant Friend not to give his vote against this bill. His own opinion certainly was, that it would have been far better to have reserved the whole subject until they knew the circumstances under which the Earl of Durham had acted. He thought it was hardly fair or just towards the Earl of Durham to bring in this bill at the time it was introduced. But after the bill had been read a second time in the House of Lords—to which this subject more properly belonged than to the House of Commons, the Lords being peculiarly concerned with questions of a judicial nature; and after the opinion expressed by his hon. and learned Friend the Attorney-general, that there was a part of the ordinance which could not be justified by law; after this he thought it would be very much worse for Lord Durham and those acting under his ordinance if this bill were now rejected than if it were passed into a law. Such being the case, much as he lamented the agitation of this question, and that this bill should ever have been framed, yet the bill having come down to the House, he thought the best course that could be adopted for all parties concerned was to pass the bill, although he, at the same time, retained the opinion expressed by others, that it was certainly a premature expression of opinion on the part of Parliament.

Mr. *Aglionby*, and those of his Friends who generally gave their support to the

Government, but who belonged to no particular party, were on the present occasion placed in rather an awkward dilemma. It appeared to him that the very arguments which the noble Lord had addressed to the House to induce them to pass this bill were arguments that ought to incline them to reject it. The noble Lord had observed, too, that this bill came from the House of Lords, who were better qualified to deal with questions of this nature than the House of Commons: but that he distinctly denied. One reason that operated with him in his aversion to the measure was, that the House was called upon at the close of the Session to pass a censure upon Lord Durham, without having the opportunity to ascertain whether that censure was just or not. Objecting as he did to bills of indemnity altogether, and believing that Lord Durham had acted with the best intentions for the benefit of the colony, he thought that the better course, both towards him and the colony itself, would be to throw out the bill.

Sir *George Grey* said, that in reference to one of the observations which had just fallen from his hon. Friend, he wished to state, that while he deeply regretted that this bill should have been introduced into Parliament, and while he most reluctantly, under the circumstances, gave to it his assent, yet he would not even now give it his support if he could conceive, with his hon. Friend, that it would imply the slightest charge against Lord Durham. Lord Durham had been wholly absolved—at least by the House of Commons, as was clear from the debate of this night—from anything approaching to criminality. The utmost extent to which he was charged with having acted illegally was, that in exercising his powers he had overlooked the territorial limits of Lower Canada. It was on that narrow ground only that it was alleged there had been an excess of authority exercised by him. While speaking of the conduct of Lord Durham, there was one point which appeared to have been lost sight of; at all events it had not been sufficiently dwelt upon; namely that there were three classes of persons dealt with by this ordinance. The cases of two of those classes had been repeatedly brought under discussion; but the case of the third class—namely those to whom complete amnesty had been granted by Lord Durham—had been overlooked. Now, it was a fact that that class consisted of between 300 and 400 persons, who had been apprehended and confined in the gaols of Montreal. This ordinance released all those persons and sent them to their homes. The second class were those eight individuals who, having confessed their guilt had been banished for four years; while the third class, consisting of fifteen persons, and who had already absconded from the colony, and who were known to have been the ringleaders in the insurrection, were forbade to return to the colony on pain of death; and this was an Act characterised as one of the greatest severity and cruelty. He could only say, that the noble Earl who was supposed to be principally affected by such a charge might well bear it; and he hoped that no charge might ever be brought against that noble Lord upon grounds more consistent with truth and justice.

Mr. *Easthope* had heard with profound grief that they were to be entangled in the meshes of this paltry legislation—pitiful in its intention and in its origin, God send it might not prove most mischievous in its results. He most firmly believed, that there prevailed throughout the country one feeling of reprobation in respect of this miserable effort to do mischief. However calamitous the results might be, there would exist in the minds of the people no difficulty in tracing them to their source. He was sorry that there should be any impediment or obstruction in the way of their expressing their scorn for this despicable measure; but he felt bound to defer to the opinion which had been so generally expressed by the House as to the mode of dealing with the bill, for sorry should he be to add to the embarrassment which already existed with regard to this question; and as it was considered that it might increase that embarrassment if the House were on this occasion to be driven to a division, he should most reluctantly waive the opposition which he had fully intended to make to its further progress. It would be presumptuous on his part if he were to attempt to go into the legal questions that had already occupied so much of the time of the House, and it was unnecessary for him to do so, but he should have been negligent of his public duty if he had not entered his protest against the measure, and had not expressed his concurrence in that general condemnation which he firmly believed was felt towards it by a vast majority of the country. Whatever evil consequences might result from it would be attributable to the quarter where it had originated. He had, however, no fear of one result, which might perhaps have been contemplated. He had no apprehension, that the Earl of Durham would lose sight of the cause of his country, of the cause of humanity, or of the cause of good government. He believed, that that noble Lord was too steadily bent on pursuing the path of duty which his patriotism pointed out to him, that he understood his course too well to be driven, or for a moment diverted from it, either by insult or any such ill-treatment. He believed, that Lord Durham would still pursue that course; and he ardently and sincerely hoped, nay, he confidently believed, that the ultimate result of the noble Earl's mission would be one which would reflect honour upon himself, and be attended with the greatest advantage to his country. But with respect to the bill then before them, so strongly was he opposed to it, that if there were any chance of success on his moving that it be read a third time this day three months, and that without causing embarrassment, he should most cheerfully have taken that course; but he felt, under all the circumstances, that such a step was not open to him, and he should, therefore, refrain from taking it, but he did so with the most sincere and unfeigned regret.

Mr. *Grote* wished to say a few words before the bill passed, principally because he was one of the inconsiderable minority on the passing of the Act for providing a temporary government for Lower Canada, and from which bill he conceived the whole of the recent proceedings to have arisen. By that Act, the Imperial Parliament vested in the Governor and Special Council, powers that were unknown to the constitution; and the consequence had been—and not unnaturally so—that the extent of those powers had been misconstrued by the individuals upon whom they were conferred. He could not help feeling satisfaction that he had not been seduced by personal respect to the Earl of Durham into a concurrence in a measure which, he must say, deserved the strongest epithets which had been applied to it, when it was under discussion in that House. He still much feared, that it would be found, that the House had gone the wrong way to work to obtain a settlement of the discontentment which existed in that country; and certainly when he followed the course of the debate on this measure, and contrasted the encomiums which had been passed upon Lord Durham by hon. Gentlemen with the conduct of the same Gentlemen who were saying by this bill, that he had exercised his power illegally, he found great difficulty in reconciling their conduct. If the noble Lord deserved the encomiums, then certainly this bill was not necessary; and if he had been guilty of illegal acts, then the encomiums could not be right. How they would get out of the difficulties in which they were placed he did not know. He was sensible, however, that as there was to be no division, there was no use in prolonging a debate which was to end in nothing; but he reflected with increased satisfaction at the opposition which he had given to the bill for providing for the temporary Government of Lower Canada, out of which he believed the necessity for the present bill had arisen, a bill which had thrown doubt on the proceedings of Lord Durham, and would probably cause loss of the moral influence of Government in that colony.

Colonel *Sibthorp* regretted, that they had placed the Earl of Durham in a difficult situation by the contrary opinions which had been given; for the noble Lord, between two seats, would catch a fall. He thought, that the Government had done that which reflected little credit on themselves and was unworthy of the character of the noble Earl.

Mr. *Finch* said, that the hon. Members who had preceded him, and who objected to this bill, seemed inclined to content themselves with merely entering their protest against it, but this course was not one which met entirely with his sanction. He was strongly opposed on principle to all acts of indemnity, and he was clearly of opinion, that they ought not to be hastily passed whilst any doubt existed of their necessity. In the present case the conflicting opinions which had been delivered by eminent lawyers showed, that there was much doubt, and he should therefore certainly move that the third reading of this bill should be postponed to that day week. They were also at present in a state of uncertainty as to the circumstances which led Lord Durham to adopt the ordinance, and they ought not, without full knowledge, to be called upon to sanction so delicate a measure as an act of indemnity. In another week a packet would probably have arrived and they would then be able to learn the real state of the case. The arguments of his hon. and learned Friend near him (Dr. Lushington), appeared to him to be convincing, and the hon. and learned Member for Exeter had left the House without attempting to answer any of those arguments. It was necessary that the Friends of Lord Durham should express their opinions, and, as the gallant colonel opposite wished to discover who were the real friends of that noble Lord, he would give the country an opportunity of knowing them: he would move that the bill be read a third time that day week.

The *Attorney-General* most exceedingly regretted that the hon. Gentleman should persist in a motion for dividing the House, and he thought that the hon. Gentleman would have done better to have followed the course adopted by other Members of great experience in that House, and of high station in the country, who, though objecting to the bill, had thought it more expedient not to press a division. To the hon. Member who had seconded the motion, of whom he entertained the highest opinion, and whom he had known for years, he would also appeal, and ask him whether, under the circumstances of the case, it was expedient to take the step? Hon. Members might or might not be satisfied of the legality of the ordinance, still, after the opinions which had been expressed by himself and his learned Friend the Solicitor-general, that part of the ordinance was illegal, although this might be wrong, it would be better to pass the bill. No opinion to the contrary had been given, and he believed that the hon. Member for Tynemouth merely contended that it was only a small departure from the letter of the law, like the lady who, being accused of having had an illegitimate child, said, by way of excuse, "It was true I have had a child, but then it was only a little one." Why, these opinions would encourage the bringing of actions, and the very bringing of actions would expose the parties who had acted under the ordinance to expense and vexation and mortification. He agreed that if this bill could have been avoided it would have been infinitely better, and if no motion had been made no action would have been thought of; but now, if they did not pass this bill the parties would be liable to pettifogging actions. The present bill was as objectionable to him as it was to the hon. Gentleman, but still he hoped he would yield to what was evidently the strong sense of the House.

Mr. *Hutton* said, that the bill was not asked for by Lord Durham: and his strong feeling was, that it ought not to be passed, although, after the way in which the question had been put by Ministers, he could not see well how the House could absolutely refuse it. He trusted, therefore, that his hon. Friend with whom he usually acted would comply with the strong wishes of the Government, and not divide the House, although if he did press his amendment his own conviction was, that the bill was not proper.

Mr. *Hawes:* Although he had last night said that if a motion were made he would divide against it, yet, looking at the state of the House, and seeing how many of their friends were absent, a division might embarrass the Government; and as he thought that his hon. Friend's object had been attained by showing his great dislike to the measure he might withdraw his motion.

Mr. *Finch* in accordance with the opinion of his Friends would yield to their wishes, and would not divide the House.

Bill read a third time and passed.

EDUCATION OF FACTORY CHILDREN.] Mr. *Grote* said, that in moving for the returns of which he had given notice he would not enter into the general factory question, but he would only call the attention of the noble Lord the Secretary of State for the Home Department to some few points. The Factory Act had now been passed for five years, and there had, therefore, been full time for the provisions of that act to have been brought into operation. He believed that much good had been already done, although there were many places in which the children even now received no education at all; and when they read the reports of the commissioners it was impossible to fail coming to the conclusion that the intentions of the Legislature as to the education of the children had been but very imperfectly carried out. The report of the commissioners, especially of Mr. Horner, who had paid most attention to the subject, clearly established the fact, that of the very imperfect and unequal education of the factory children in various parts of each district. The subject of factory legislation had come before the House on various occasions, but nothing had been done as to the manner in which the intentions of the Legislature on this most important part of that question had been carried out. He believed that in some districts those intentions had been fully executed, through a generous and enlightened philanthropy on the part of the factors; and one part of his motion went to make known what had already been done, and he hoped that by this means much would be done throughout the whole of the districts, because it must be obvious to the House that what had been done in some districts might, by means of proper provisions and due exertions, be accomplished throughout the whole. Moreover, if through any defect in the law it could not be carried into full effect, the inspectors must know what difficulty stood in the way; and the House would naturally look to them for full and authenticated information, if they were called upon to legislate in a future Session and they would be better able to enter upon the question in a future Session if they were in possession of the information which by these returns he required from the inspectors. As there was no objection to his return, he would not detain the House further, but would conclude by moving "That each of the four factory inspectors do report separately, at the period of his quarterly general report, on the effects of the educational provisions of the Factory Act, as exemplified in not less than twelve of the schools situated in his district, in which these provisions have been observed in the most efficient manner and that the four factory inspectors do make a joint report as to any modification of the existing educational provisions of the Factory Act, which may appear to them desirable."—Motion agreed to.

Registration of Electors.] A conference was held with the Lords on the Registration of Electors Bill, and it was reported to the House that the managers of the conference on the part of the Lords had delivered back the Bill, together with the reasons of their Lordships for adhering to their Amendments.

The Amendments and the reasons for disagreeing to them, having been read,

The *Attorney-General* said, that he was exceedingly sorry that it became his duty to move that the Amendments of the House of Lords to the bill should be considered on that day three months. If the House were to agree to the Amendments of the House of Lords, they would inflict a great and serious wound on the constituent body in this country. When the bill had gone up from this House, it was simply a bill for regulating the mode of the registration of their constituents, and it passed without any objection being made to it, except in the case of one clause, on which a division took place. A clause, however, had been introduced into it, in the other House, respecting the franchise, to which he thought it was impossible that they could agree. Thousands of persons had already been placed on the registry as voters, in their character as trustees, but by the clause to which he had alluded the franchise was taken from them, and he thought that this provision could not be allowed.

Mr. *Warburton* thought, that the objection pointed out by the learned Attorney-General was a very valid one, and one which would be generally admitted. When the bill was before in this House, it was agreed as a principle that it should provide only for the matter of registration, and yet the House of Lords had introduced this clause, having reference to an entirely different matter.

Motion agreed to, consideration of the Amendments postponed for three months.

Debtors' Schedules.] The *Attorney-General* begged to draw the attention of the House to a bill which had come down from the House of Lords touching the insertion of debtors schedules in newspapers. The bill was read a first time last night, and he proposed to take it through its remaining stages this evening. He was anxious that he should be permitted to do so, because he must say, that its object was to remedy a grievance of a very serious nature although he must observe, that a similar grievance had been allowed to exist for the last twelve years, and, so far as he could learn, without any complaint. He alluded to the provision which had been in existence under the Insolvent Debtors Act. The Imprisonment for Debt Bill required the schedules of debtors to be inserted in the newspapers, and restricted the amount to be demanded by the proprietors of newspapers to 3s. for each advertisement. Now he could not see that Parliament had any right to deal with the columns of a newspaper any more than they had to dispose of the goods of any shopkeeper at certain prices. He thought, therefore, that the House would see the propriety of adopting this measure, and of giving the protection suggested to the proprietors of newspapers.

Bill read a second time.

On the motion that it be committed,

Mr. *Aglionby* suggested, that it was highly impolitic to proceed so rapidly through the stages of such a bill as the present, when the benches of the House were so thinly occupied. The effect of the proposed law would be to impose a hardship upon debtors, because it might happen that they were unable to procure sufficient funds to pay for the insertion of the advertisement. He should suggest, therefore, that the present bill should be withdrawn, as little harm could be done during the recess to the newspapers, and that in the next Session a new measure should be introduced, providing for the adoption of such a price for the advertisements as would fully repay the newspaper proprietors, and would not seriously affect the position of the debtor.

Mr. *Freshfield* said, that it was creditable to newspaper proprietors, that they should have so long permitted the grievance of which they complained to exist, without attempting to remedy it; but at the same time, he was of opinion, that it was not wise to press too severely upon debtors, or to leave them entirely at the mercy of those who could control the prices to be demanded for the advertisements required by law.

The *Attorney-General* thought, that, under the circumstances, it would be better to withdraw this bill, and he was the less scrupulous in doing so, because he thought, that the bill bore evident marks of its having been prepared with little care, and because he thought it would not be found to operate as beneficially as it was thought it would.

Bill withdrawn.

FOREIGN SLAVE TRADE.] Sir *R. H. Inglis* wished to ask the noble Lord, the Secretary for Foreign Affairs, what steps Government had taken in consequence of the unanimous address of the House of Commons in May last upon the subject of the Slave-trade? That address touched upon three points, and prayed her Majesty to obtain from foreign powers a declaration, that the slave-trade should be treated as piracy; the concession of a mutual right of search in all treaties with foreign states; and, finally, it specifically expressed an expectation, that Portugal would conclude an adequate treaty for the suppression of the Slave-trade.

Viscount *Palmerston* assured the right hon. Baronet, that the attention of Government had been earnestly and anxiously given to the important subject to which he had adverted. Respecting the first question, he begged to inform the right hon. Gentleman, that Government hoped to obtain the consent of all the great powers of Europe to a general treaty for the suppression of the slave-trade, and in that treaty they would endeavour to obtain the insertion of a declaration, that the slave-trade should be treated as piracy. A negotiation to this effect had only been delayed from a wish, in the first instance, to come to an understanding with France as to the extension of the geographical limits for the right of search contained in the conventions between France and England. Those limits did not include the eastern coast of Africa, from which an extensive slave-trade was carried on; and when they were making a general European treaty, it was clearly desirable, that it should contain the most complete stipulations respecting the extent of the limits. It was unnecessary to say, that the foundation of all treaties upon the slave-trade must be a mutual right of search; and he had no reason to expect any difficulty on that point, except on the part of the United States of America. In that country, unfortunately, that maritime jealousy which this country had overcome in respect to France, still existed; and he had no hope, at present, of obtaining the consent of the United States to a treaty for the mutual right of search. At the same time, it was but justice to say, that no effort had been omitted on their part to carry into execution their own laws for the suppression and prevention of the slave-trade. Respecting the third question, he was sorry to say, that he could not yet announce, that Portugal had agreed to an adequate treaty for the fulfilment of her engagements with this country. The Government, as was well known, had sent out some time ago, the draft of a treaty for this purpose, but the Portuguese administration proposed several modifications, to some of which the British Government acceded, while to others they objected. Subsequently, the Portuguese administration made another reference to the British Government with a view to the alteration of the treaty, and latterly he had sent back to Lisbon a draft with such modifications as he felt it possible to accede to, without defeating the purpose of the treaty. That draft was given to the Portuguese government as our *ultimatum*, but he had not yet received the final answer to it. He was not without hopes, however, that that answer might be satisfactory to this country, and consistent with the engagements which Portugal had contracted. At the same time, the Portuguese government should not forget, that the British Parliament, the British people, the British Government, were determined to put an end to the slave-trade now carried on under the Portuguese flag, which trade Portugal had bound herself by treaty to abolish, and that, if the Portuguese government should decline signing the treaty which might be necessary for the accomplishment of this great object, Great Britain would be compelled to employ her own means for effecting that purpose. He was sure, however, that the House would feel, that her Majesty's Ministers were right in forbearing from taking such a course, so long as any hope remained of accomplishing the object with the concurrence and co-operation of Portugal. An avowal had recently been made by the governor of a Portuguese settlement on the coast of Africa unexampled in the history of civilized nations. That officer had confessed, that the only revenue of the colony was derived from duties paid on the exportation of slaves, and that the exportation of slaves was the only commerce which the colony carried on; and that while other nations, such as Spain and Brazil, excused their slave-trade on the ground, that it was necessary to the development of the resources of the country to obtain additional labour, the Portuguese, on the contrary, admitted that they by carrying on the same trade, were dispeopling their colonies and depriving them of that labour by which alone their natural resources could be developed. Some allowances, however, were to be made for Portugal. That country had had for a long course of time the misfortune of suffering under the worst government, that perhaps ever existed in Europe—a government under which no public opinion, and no public virtue, could be expected, for public opinion, and public virtue, could not arise without a free press, and free, and public, discussion, in popular meetings. Now, however, fortunately, Portugal had obtained the advantage of a constitutional government; and it was to be hoped, that the feelings of her people would change on this, as well as on many other subjects. At present one of the great difficulties which prevented this successful termination of the negotiations with that country arose from the circumstance, that many influential persons in Lisbon had a direct and personal influence in this traffic. With respect to Brazil to which country the right hon. Baronet had adverted, this Government was pressing two matters on the Brazilian administration. The first was, the ratification of the equipment and breaking-up articles. When last he heard from Rio Janeiro the chambers had recently assembled, and our chargé d'affaires had been instructed to urge the Brazilian government to use every effort to obtain the ratification of these articles by the chambers. The second point was, that they should pass a law affixing to the slave-trade the punishment of piracy. Brazil had by treaty declared the slave-trade to be piracy, but had not yet passed a law which should carry that stipulation into effect. The noble Viscount concluded by assuring the right hon. Baronet and the House, that this important subject would occupy the most anxious attention of Government during the recess, and he hoped, that when Parliament re-assembled he should be able to give a more satisfactory statement on this point than it had been in his power to afford on this occasion.

Sir *R. H. Inglis* had heard with great pleasure what had fallen from the noble Viscount, and he begged on the part of the House to confirm the assertion which had been made, that Parliament and the country would not permit the continuance of the slave-trade under the Portuguese flag, and, he was sure, that the Government would be fully supported by Parliament in any measure which they might be driven to resort to for its suppression, if Portugal should finally refuse to accede to the treaty which had been proposed to it.

HOUSE OF LORDS,

Thursday, August 16, 1838.

Minutes.] Petitions presented. By Lord Lyndhurst from the Chamber of Commerce, Bristol, for Protection to Foreign Trade.

Prorogation of Parliament.] Her Majesty went in State to the House of Peers and prorogued the Parliament.

Her Majesty being seated on the Throne and the Commons with Mr. Speaker at their head, having come to the bar,

The *Speaker* addressed Her Majesty as follows:—

"*Most Gracious Sovereign,*

"We, your faithful Commons, approach your Majesty at the close of a laborious and unusually protracted Session of Parliament. The serious disturbances which unhappily broke out in the province of Lower Canada demanded our immediate attention. It was our first care to place at the disposal of your Majesty such means as we deemed to be indispensable for the restoration of order and the maintenance of future tranquillity.

"In considering, as it was our duty to do, the causes which had led to these deplorable events, we found that the discord which had so long existed between the different branches of the Government and Legislature had rendered it impossible to conduct public affairs with that efficiency and harmony which were essential to the prosperity and safety of that province.

"Under this conviction we felt, that it was necessary to interpose by adopting a vigorous and decisive measure, and we have passed an Act suspending for a limited time the constitution of Lower Canada, and have given large and extensive powers to be exercised under the control of your Majesty, and on the responsibility of your Ministers. We are conscious that such a measure can only be defended by the deepest conviction of its necessity, and we anxiously look for our justification in the early re-establishment of the free institutions of that important colony, with such amendments as may best secure the happiness of its people, as well as cement its union with the mother country.

"Among the subjects recommended to our consideration in your Majesty's gracious speech on the opening of the Parliament, there was none that presented greater difficulties, or which demanded more care and circumspection, than the provision to be made for the destitute in Ireland. We felt that no measure for the introduction of a poor-law into a country circumstanced as Ireland is with respect to the number and condition of its population could be proposed without incurring heavy responsibility; but, looking at the example of what had been done on this subject by former Parliaments with respect to England, we thought that the time was come when we might legislate for Ireland with safety and with a reasonable hope of success.

"We have firmly adhered to those principles which have been sanctioned by general concurrence and by experience, but we have not carried them further than was necessary to give them a fair chance of success, and to meet the pressing exigency of the case. If the execution of this most important law shall be watched over and guided by the same prudent and impartial spirit which governed our deliberations in its enactment, we confidently hope that the benefits which it is calculated to confer will be gradually developed, that it will be found to be just towards all who are affected by its provisions, and that it will eventually be the means of greatly improving the comforts and the habits of the people of Ireland.

"We have passed an Act abolishing compositions for tithes in Ireland, and have substituted rent-charges, payable by those who have a perpetual interest in the land. The exaction of tithes from those who were either unable, or who refused to pay, has been a fruitful source of strife, alike injurious to the public peace and the real interests of the Church. We have given the strongest proof of our desire to extinguish these evils, and to procure present repose and tranquillity, by making a liberal and munificent grant to indemnify in certain cases those to whom arrears of compositions for tithes are due.

"We have mitigated the severity of the law, and the sufferings of the unfortunate, by abolishing in certain cases imprisonment for debt, and we have endeavoured to increase the usefulness of the church by abridging the holding of benefices in plurality, and by making better provision for the residence of the clergy. In passing these measures we have again recorded our conviction that the surest way to maintain respect for our laws and attachment to our institutions is by gradually introducing such amendments as are most likely to recommend them to the improving opinions and increasing knowledge of the educated classes of the community.

"We have made provision with liberality, but without improvidence, for the necessary expenditure of the year, as also for those additional expenses arising from the events in Canada.

"We now tender to your Majesty the last Act of Supply of the present Session, entitled, 'An Act for appropriating the surplus of the Consolidated Fund to the service of the year 1838.'"

Her Majesty was then pleased to give the Royal assent to the following Bills:—The Consolidated Fund (Appropriation), Tin Duties, Canada Government Indemnity, Private Bill Deposit, the Valuation of Lands (Ireland), Personal Diligence (Scotland), the Custom Duties, the County Treasurers (Ireland), the Imprisonment for Debt, the Sheriffs' Courts (Scotland), and the St. Saviour's, Southwark, Free Grammar School Bills.

Her Majesty then read in a clear and distinct voice the following gracious speech:—

"*My Lords and Gentlemen*,

"The state of public business enables me to close this protracted and laborious Session.

"I have to lament that the civil war in Spain forms an exception to the general tranquillity. I continue to receive from all foreign Powers the strongest assurances of their desire to maintain with me the most amicable relations.

"The disturbances and insurrections which had unfortunately broken out in Upper and Lower Canada have been promptly suppressed, and I entertain a confident hope that firm and judicious measures will empower you to restore a constitutional form of Government, which unhappy events have compelled you for a time to suspend.

"I rejoice at the progress which has been made in my colonial possessions towards the entire abolition of Negro Apprenticeship.

"I have observed with much satisfaction the attention which you have bestowed upon the amendment of the domestic institutions of the country. I trust that the mitigation of the law of Imprisonment for Debt will prove at once favourable to the liberty of my subjects, and safe for commercial credit, and that the Established Church will derive increased strength and efficiency from the restriction of the granting of Benefices in Plurality.

"I have felt great pleasure in giving my assent to the Bill for the Relief of the Destitute Poor in Ireland. I cherish the expectation that its provisions have been so cautiously framed, and will be so prudently executed, that whilst they contribute to relieve distress, they will tend to preserve order, and to encourage habits of industry and exertion.

"I trust likewise that the Act which you have passed relating to the

Composition for Tithe in Ireland will increase the security of that property, and promote internal peace.

"*Gentlemen of the House of Commons*,

"I cannot sufficiently thank you for your despatch and liberality in providing for the expenses of my household, and the maintenance of the honour and dignity of the Crown. I offer you my warmest acknowledgments for the addition which you have made to the income of my beloved mother.

"I thank you for the supplies which you have voted for the ordinary public service, as well as for the readiness with which you have provided means to meet the extraordinary expenses rendered necessary by the state of my Canadian possessions.

"*My Lords and Gentlemen*,

"The many useful measures which you have been able to consider, while the settlement of the Civil List, and the state of Canada, demanded so much of your attention, are a satisfactory proof of your zeal for the public good. You are so well acquainted with the duties which now devolve upon you in your respective counties, that it is unnecessary to remind you of them. In the discharge of them you may securely rely upon my firm support, and it only remains to express an humble hope that Divine Providence may watch over us all, and prosper our united efforts for the welfare of our country.

The *Lord Chancellor* then, by her Majesty's command, declared Parliament to stand prorogued until Thursday, the 11th of October next, to be then here holden, and her Majesty, after bowing to the assembled Lords and Commons, retired.

HOUSE OF COMMONS,

Thursday, August 16, 1838.

MINUTES.] Petitions presented. By Mr. LEADER, from Tradesmen, and other Inhabitants of Glasgow, to extend the Royal mercy to the men who were lately condemned at Edinburgh for a conspiracy at Glasgow; from the Working Men's Association at Carmarthen, praying that the twenty-three persons, eight of whom had been sent to Bermuda by order of the Governor-General of Canada, and the remaining fifteen forbidden to enter the province on pain of death, may receive a full, free, and unconditional Pardon.—By Mr. HAWES, against any Alteration of the Beer Act.—By Mr. O. CAVE, from the Chairman and Secretary of a Society in the county of Tipperary, for the Total Abolition of Tithes in Ireland.—By Sir R. INGLIS, from Slingsby, in favour of the Established Church in Canada; from Oxbroke (Derby), against the Encouragement of Idolatrous practices in the East Indies; and from the Clergy and Archdeaconry of Colchester, against any measure for settling Parochial Assessments similar to the late Bill.

LABOURS OF THE SESSION.] Sir *R. Inglis*, after having presented some petitions, said, he hoped he might be allowed to take that opportunity of congratulating the right hon. Gentleman in the chair, and the House generally, on the termination of a Session of almost unexampled duration, toil, and fatigue. He found that the House had now sat 173 days, during which no less than 1,134 hours had been occupied with public business, a number which was unexampled in the annals of Parliament, with the exception of a single year, in which the amount had been exceeded, partly on account of the morning sittings which were then on trial, and partly owing to the lengthened discussions on the Reform Bill, which was pending that Session. But if they compared the labours of the last Session with those which their predecessors had to undergo, indeed, if they went back only so far as the reign of George 4th, or the beginning of William 4th, the contrast would appear most striking. In the first Session after the accession of the former monarch, the House of Commons had sat only 111 days. In the first Session of William 4th they sat only 84 days, and rolling this as it was rolled into the last Session of George 4th, still the united number of days only reached 107. The first Session of the present century was the longest previous to the Session just past, the number of days occupied by sittings being 132. He thought the country must see with satisfaction the testimony of attention to the duties of legislation exhibited in the numbers he had mentioned, but while he thought this, he could not but feel also, that there was no circumstance connected with the Session which would tend to give less satisfaction than the great number of Bills which had been introduced into that House within the last few weeks. No less than sixty-four new Bills had been introduced since the 1st of July, a number exceeding the entire amount that had been presented in the first three months of the Session. He was very glad to see that an hon. Member had given notice of a motion calculated to correct this evil for the early part of next Session, and he must say, he earnestly trusted that it would be persevered in, as he thought the subject deserving of the gravest consideration on the part of the House.

Subject dropped.

THE POOR-LAW.] Sir *C. Douglas*, in rising to move, pursuant to notice, " that each assistant Poor-law Commissioner do forthwith prepare a report to the board at Somerset-house, as to how far he may be of opinion, that the regulations now in force for refusing out of door relief in money to the able-bodied, and for the separation of man and wife in the work-houses after sixty years of age each, should or should not be modified, stating the reasons for whichever view he may take," said, that in the course which he had pursued on the subject of the Poor-law he was anxious, it should not be thought, he had intended in any way to mislead the public, and he must say, he deeply regretted, that nothing had been done on the subject. It was one on which he was quite convinced political heats and party feelings ought to have no place, and he had refused to accede to the motion brought forward by the hon. Member for Oldham in the early part of the Session, and thereby shown, that he acquiesced generally in the principles of the Poor-law Amendment Act. But, he must add, that he did think Government might have been able, had they taken up the subject early in the Session, when there was a full attendance of Members, to have passed such a measure, for the modification of the powers of the commissioners in those particulars to which his motion referred—viz., out-door relief to the able-bodied, and the separation of the sexes, as would have given general satisfaction throughout the country. At present, however, he had risen to call attention to the subject, chiefly for the purpose of showing, that there were Members—he believed, a number of Members—in that house who were earnestly desirous of giving a careful and deliberate consideration to these questions. With reference to the notice on the subject which he had placed on the books some time ago, he had felt, that it would be improper for him to make that motion until after the Poor-law committee should have terminated their labours, and made their final report (which had only just been done); he had made his notice contingent upon that event. He was anxious that there should be no misapprehension on this point. With respect to the delay which had taken place in presenting the final report of the Poor-law committee, that delay was justified, in his opinion, by the circumstances to which it was attributable. He thought, that the recess would be well employed by every Member of the House in digesting the report of the Committee, and in consulting with their constituents and ascertaining their feeling. He should certainly feel it his duty to press the subject on the notice of the House on an early day in next Session; but in the mean time, it was his earnest hope, that her Majesty's Government would see the necessity of directing their attention to the wishes of the people expressed as they had been in almost innumerable petitions on this subject. Once for all, he would say, that his object was, to render the Poor-law more consonant to the wishes of the poor themselves, and though he thought, that it was by the Government, that the country had a right to expect, that a matter of so much importance should be brought under consideration, still if no one more able were found, he should persist in pressing the subject.

Mr. *Freshfield* said, that the Poor-law committee, great as had been their labours felt no regret in reference to those labours. They complained of nothing. Four days in every week, and five or six hours each day, they had devoted to their duties; but the time they had given to the inquiry, extended as it was, was no more than necessary in order to render the proceedings satisfactory to the public generally, as well as to those who had evidence to produce on the subject, both on the one side and on the other. And he must add, that whatever desire hon. Members might generally feel to show humanity and benevolence towards the poor in their addresses in the House on this question, of which the importance to the public was so well known, there could be nowhere more strong feelings of this kind than were manifested in the committee. He had gone into that committee with very strong prepossessions on the subject, but he found in a short time that the great feeling was in favour of carrying the Act into operation with humanity and attention to the wishes of the poor.

Mr. *Briscoe* moved as an Amendment for a return of the number of married couples confined in workhouses in England and Wales, stating the number in each workhouse and the age and state of health of the parties. A great deal of misconception had got abroad as to the number of married persons in the workhouses, and it was not generally known that the boards of guardians had very extensive powers of giving out-door relief to married couples above the age of 60. With a view of ascertaining something of what was the state of the case in Surrey, he had found that in the union of Croydon, consisting of Croydon parish, with a population of 12,000, and twelve adjacent parishes, there were only two married couples in the workhouse, and in each case the parties being blind and totally helpless, received every care, had a nurse to attend upon them, and every thing else which could be done to alleviate their sad condition. He hoped there would be no objection to the returns as, if they were made, the House would be put in possession of very important documents with respect to the extent of the evils of separation, which were so much complained of.

The motions were put separately and both negatived.

The Gentleman Usher of the Black Rod summoned the House to attend Her Majesty in the House of Lords. The House accordingly went, and after some time returned, when the Speaker, sitting at the Table, read her Majesty's speech and then the Members separated.

INDEX.

A

TABLE

OF

All the STATUTES passed in the FIRST SESSION of the THIRTEENTH PARLIAMENT of the United Kingdom of *Great Britain* and *Ireland.*

1° & 2° *VICT.*

PUBLIC GENERAL ACTS.

i. AN Act to continue for Six Calendar Months all such Commissions of the Peace as were in force at the Time of the Decease of His late Majesty King *William* the Fourth, and as have not been superseded, determined, or made void during the Reign of Her present Majesty.

ii. An Act for the Support of Her Majesty's Household, and of the Honour and Dignity of the Crown of the United Kingdom of *Great Britain* and *Ireland.*

iii. An Act to carry into further Execution the Provisions of an Act for completing the full Payment of Compensation to Owners of Slaves upon the Abolition of Slavery.

iv. An Act to remove Doubts as to summoning Juries at adjourned Quarter Sessions of the Peace.

v. An Act for the Relief of Quakers, Moravians, and Separatists elected to Municipal Offices.

vi. An Act to regulate the Expenses of conveying Prisoners in *Ireland,*

vii. An Act to enable the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings to purchase Ground and Tenements required to complete the Site for the new Houses of Parliament.

viii. An Act to enable Her Majesty to grant an annual Sum to Her Royal Highness *Victoria Maria Louisa* Duchess of *Kent.*

ix. An Act to make temporary Provision for the Government of *Lower Canada.*

x. An Act to make good certain Contracts which have been or may be entered into by certain Banking and other Copartnerships.

xi An Act to apply the Sum of Two Millions to the Service of the Year One thousand eight hundred and thirty-eight.

xii. An Act for raising the Sum of Eleven millions four hundred and thirteen thousand seven hundred and fifty Pounds by Exchequer Bills, for the Service of the Year One thousand eight hundred and thirty-eight

xiii. An Act to enable the Grand Juries of the County and County of the City of *Waterford* to make Presentments, at the Spring Assizes for the Year One thousand eight hundred and thirty-eight, for the House of Industry of the said Counties.

xiv. An Act to repeal so much of an Act of the Thirty-ninth and Fortieth Years of King *George* the Third as authorizes Magistrates to commit to Gaols or Houses of Correction Persons who are apprehended under Circumstances that denote a Derangement of Mind and a Purpose of committing a Crime; and to make other Provisions for the safe Custody of such Persons.

xv. An Act for the further Relief of Quakers, Moravians, and Separatists.

xvi. An Act to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and for extending the Time limited for those Purposes respectively until the Twenty-fifth Day of *March* One thousand eight hundred and thirty-nine; and for the Relief of Clerks to Attornies and Solicitors in certain Cases.

xvii. An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

xviii. An Act for the Regulation of Her Majesty's Royal Marine Forces while on Shore.

xix. An Act to amend the Act for the Abolition of Slavery in the *British* Colonies.

xx. An Act for the Consolidation of the Offices of First Fruits, Tenths, and Queen *Anne's* Bounty.

xxi. An Act to apply the Sum of Eight Millions out of the Consolidated Fund to the Service of the Year One thousand eight hundred and Thirty-eight.

xxii. An Act to enable the Commissioners for the Affairs of *India* to make Rules and Regulations for *Haileybury* College.

xxiii. An Act to amend the Law for providing fit Houses for the beneficed Clergy.

xxiv. An Act to repeal Part of an Act intituled *An Act to provide for the Administration of the Government in case the Crown should descend to Her Royal Highness the Princess* Alexandrina Victoria, *Daughter of his late Royal Highness the Duke of* Kent, *being under the age of Eigh-*

teen Years; and for the care and Guardianship of her Person.

xxv. An Act to explain and amend an Act of the Seventh Year of His late Majesty, for extending the Period for the Repayment of Loans made under an Act passed in the Fourth and Fifth Year of His said late Majesty for the Amendment and better Administration of the Laws relating to the Poor in *England* and *Wales.*

xxvi. An Act for raising the Sum of Thirteen Millions by Exchequer Bills, for the Service of the Year One thousand eight hundred and Thirty-eight.

xxvii. An Act to make more effectual Provision for the Prevention of Offences by Insane Persons in *Ireland.*

xxviii. An Act to repeal the several Acts now in force relating to Bread to be sold in *Ireland*, and to provide other Regulations for the making and Sale of Bread, and for preventing the Adulteration of Meal, Flour, and Bread, in that Part of the United Kingdom called *Ireland.*

xxix. An Act to supply an omission in an Act passed in the present Session of Parliament, intituled *An Act to amend the Law for providing fit Houses for the beneficed Clergy.*

xxx. An Act for continuing the Bishoprick of *Sodor and Man.*

xxxi. An Act for facilitating the Sale of Church Patronage belonging to Municipal Corporations in certain Cases.

xxxii. An Act to enable her Majesty's Courts at *Westminster* to hold Sittings in Banci in Time of Vacation.

xxxiii. An Act for granting to Her Majesty, until the Fifth Day of *July* One thousand eight hundred and thirty-nine, certain Duties on Sugar imported into the United Kingdom, for the Service of the Year One thousand eight hundred and thirty-eight.

xxxiv. An Act to continue for Five Years, and from thence until the End of the then next Session of Parliament, an Act of the Second and Third Years of the Reign of His late Majesty, to restrain for Five Years, in certain Cases, Party Processions in *Ireland.*

xxxv. An Act to repeal the Stamp Duty now paid on Admission to the Freedom of Corporations in *England.*

xxxvi. An Act to make further Provisions and to amend the Acts relating to the Harbour of *Kingstown* and the Port and Harbour of *Dublin.*

xxxvii. An Act to empower the Foreman or any other Member of Grand Juries in *Ireland* to administer Oaths to Witnesses on Bills of Indictment.

xxxviii. An Act to amend an Act for punishing idle and disorderly Persons and Rogues and Vagabonds.

xxxix. An Act for carrying into effect a Convention of Accession of the *Hans Towns* to Two Conventions with the King of the *French*, for suppressing the Slave Trade.

xl. An Act to carry into effect an additional Article to a Treaty with *Sweden* relative to the Slave Trade.

xli. An Act for carrying into effect an additional Article to a Treaty with the *Netherlands*, relating to the Slave Trade.

xlii. An Act to empower the Commissioners of Her Majesty's Woods, Forests, and Land Revenues to confirm the Titles to and to grant Leases of Encroachments in the Forest of *Dean* in the County of *Gloucester.*

xliii. An Act for regulating the opening and working of Mines and Quarries in the Forest of *Dean* and Hundred of *Saint Briavels* in the County of *Gloucester.*

xliv. An Act to consolidate an amend the Laws for collecting and securing the Duties of Excise on Glass.

xlv. An Act to extend the Jurisdiction of the Judges of the Superior Courts of Common Law; to amend Chapter Fifty-six of the First Year of Her present Majesty's Reign for regulating the Admission of Attornies; and to provide for the taking of Special Bail in the Absence of the Judges.

xlvi. An Act to continue until the Thirty-first Day of *December* One thousand eight hundred and forty-one, and from thence to the End of the then next Session of Parliament, an Act of the Tenth Year of His late Majesty King *George* the Fourth, for providing for the Government of His Majesty's Settlements in *Western Australia* on the Western Coast of *New Holland.*

xlvii. An Act for the better and more effectually carrying into effect the Treaties and Conventions made with Foreign Powers for suppressing the Slave Trade.

xlviii. An Act to amend the Laws relating to the Qualification of Members to serve in Parliament.

xlix. An Act to transfer the Management of certain Annuities on Lives from the Trustees of the *Waterloo* Subscription Fund to the Commissioners for the Reduction of the National Debt, and to amend several Acts for enabling the said Commissioners to grant Life Annuities and Annuities for Terms of Years.

l. An Act to continue until the Thirty-first Day of *December* One thousand eight hundred and thirty-nine, and from thence to the End of the then next Session of Parliament, an Act of the Ninth Year of His Majesty King *George* the Fourth, for the Administration of Justice in *New South Wales* and *Van Diemen's Land.*

li. An Act to amend the Laws relating to the Levy of Grand Jury Cess in the County of the City of *Dublin.*

lii. An Act to continue for Five Years, and from thence until the End of the then next Session of Parliament, an Act of the Fifth and Sixth Years of His late Majesty, for the Regulation of the Linen and Hempen Manufacturers in *Ireland.*

liii. An Act to amend an Act of the last Session of Parliament for providing more effectual Means to make Treasurers of Counties and Counties of Cities in *Ireland* account for Public Monies, and to secure the same.

liv. An Act for making further Investments from the Money of the Suitors of the Court of Chancery and the Court of Exchequer, and for providing for the Payment into Court of Fees received by certain Officers of the Lord Chancellor.

lv. An Act to regulate and secure the Debt due by the City of *Edinburgh* to the Public; to confirm an Agreement between the said City and its Creditors; and to effect a Settlement of the Affairs of the said City and Town of *Leith.*

lvi. An Act for the more effectual Relief of the destitute Poor in *Ireland.*

lvii. An Act to appoint additional Commissioners for executing the Acts granting a Land Tax and Duties on Personal Estates, Offices, and Pensions.

lviii. An Act to vest in the Commissioners of the Treasury the Powers heretofore exercised by Commissioners appointed for certain Purposes relating to the Redemption of the Land Tax; and to authorize the Court of Exchequer to determine disputes as to the Division in which Lands are liable to be rated to the Land Tax.

lix. An Act for securing to Authors, in certain Cases, the Benefit of International Copyright.

lx. An Act to amend an Act of the Fourth and Fifth Years of His late Majesty, empowering His Majesty to erect *South Australia* into a *British* Province or Provinces.

lxi. An Act to amend an Act for enabling Persons to make Deposits of Stock or Exchequer Bills in lieu of giving Security by Bond to the Postmaster General and Commissioners of Land Revenue, Customs, Excise, Stamps, and Taxes.

lxii. An Act to enable Masters of the Court of Chancery in *Ireland*, upon Application to that Court by Petition, to execute Renewals of Leases for Lives containing Covenants for Renewal in the Names of Persons bound by such Covenants to execute the same, and being out of the Jurisdiction of the Court; and to extend such Powers to Cases of Terms for Years, whether absolutely or dependent upon upon Lives.

lxiii. An Act to amend the Acts relating to the Police of the District of the *Dublin* Metropolis.

lxiv. An Act to facilitate the Merger of Tithes in Land.

lxv. An Act for relieving the Commissioners and others acting in the Execution of divers Local Improvement Acts from certain Penalties and Disabilities.

lxvi. An Act for maintaing a Lighthouse at *Gibraltar*. and respecting Lighthouses not within the United Kingdom.

lxvii. An Act for the better Government of Prisons in the *West Indies*.

lxviii. An Act to continue until the First Day of *June* One thousand eight hundred and forty, and to the End of the then Session of Parliament, the Local Turnpike Acts for *Great Britain* which expire with this or the ensuing Session of Parliament.

lxix. An Act to remove doubts respecting Conveyances of Estates vested in Heirs and Devisees of Mortgagees.

lxx. An Act to extend the Powers of an Act of the Sixth and Seventh Year of the Reign of his late Majesty, in relation to granting Tacks and making Excambians by Heirs of Entail.

lxxi. An Act to amend and continue for One Year, and from thence to the End of the then next Session of Parliament, the several Acts relating to the importation and keeping of Arms and Gunpowder in *Ireland*.

lxxii. An Act to continue for One Year, and from thence until the End of the then next Session of Parliament, the several Acts for regulating the Turnpike Roads in *Ireland*.

lxxiii. An Act to continue for Three Years, and from thence to tho End of the then next Session of Parliament, Two Acts relating to the Care and Treatment of Insane Persons in *England*.

lxxiv. An Act to facilitate the Recovery of Possession of Tenements after due Determination of the Tenancy.

lxxv. An Act to amend so much of an Act of the Twenty-fifth Year of King *George* the Third, for the further and better regulation of Buildings and Party Walls, and for the more effectually preventing Mischiefs by Fire, within the Cities of *London* and *Westminster*, as relates to Manufactories of Pitch, Tar and Turpentine.

lxxvi. An Act to explain and amend certain Provisions in Acts of the Parliament of *Ireland* for the Protection of Fisheries in that Kingdom.

lxxvii. An Act for permitting Affirmation to be made instead of an Oath in certain Cases.

lxxviii. An Act for the Amendment of the Laws relating to Loan Societies in *Ireland*.

lxxix. An Act for the better Regulation of Hackney Carriages, and of Metropolitan Stage Carriages, and of Waggons, Carts, and Drays used in and near the Metropolis, and of the Drivers and attendants thereof.

lxxx. An Act for the Payment of Constables for keeping the Peace near Public Works.

lxxxi. An Act further to postpone until the First Day of *January* One thousand eight hundred and forty the Repayment of certain Sums advanced by the Bank of *Ireland* for the Public Service.

lxxxii. An Act for establishing a Prison for young Offenders.

lxxxiii. An Act for carrying into effect a Convention of Accession of the Duke of *Tuscany* to Two Conventions with the King of the *French* for suppressing the Slave Trade.

lxxxiv. An Act for carrying into effect a Convention of Accession of the King of the *Two Sicilies* to Two Conventions with the King of the *French* for suppressing the Slave Trade.

lxxxv. An Act to authorize the using in any Part of the United Kingdom Stamps denoting Duties payable in *Great Britain* and *Ireland* respectively.

lxxxvi,An Act to diminish Delay and Expence in Advocations and Suspensions in the Court of Session in *Scotland*.

lxxxvii. An Act to facilitate the Foundation and Endowment of additional Schools in *Scotland*.

lxxxviii. An Act to authorize a further Issue of Exchequer Bills for Public Works and Fisheries and Employment of the Poor, and to amend the Acts relating thereto.

lxxxix. An Act respecting the Transfer of certain Funds to the Secretary at War and the Paymaster General.

xc. An Act to suspend until the End of the next Session of Parliament the making of Lists and the Ballots and Enrolments for the Militia of the United Kingdom.

xci. An Act to defray the charge of the Pay, Clothing, and contingent and other Expences of the Disembodied Militia in *Great Britan* and *Ireland*; and to grant Allowances in certain Cases to Subaltern Officers, Assistants, Paymasters, Quartermasters, Surgeons, Assistant Surgeons, Surgeons-mates, and Serjeant Majors of the Militia, until the First Day of *July* One thousand eight hundred and thirty nine.

xcii. An Act to repeal the Four-and-a-Half *per Centum* Duties.

xciii. An Act for raising the Sum of Eleven millions forty-four thousand five hundred and fifty Pounds by Exchequer Bills, for the Service of the Year One thousand eight hundred and thirty eight.

xciv. An Act for keeping safely the Public Records.

xcv. An Act to provide for the Payment of certain Pensions.

xcvi. An Act to amend, until the End of the next Session of Parliament, the Law relative to Legal Proceedings by certain Joint Stock Banking Companies againt their own Members, and by such Members against the Companies.

xcvii. An Act for imposing Rates of Postage on the Conveyance of Letters by Packet Boats between Places in the *Mediterranean* and other Parts.

xcviii. An Act to provide for the Conveyance of the Mails by Railways.

xcix. An Act for the more effectual levying of Fines, Penalties, Issues, Deodands, and Amerciaments, and of forfeited Recognizances estreated in *Ireland;* and for the Application and Distribution thereof.

c. An Act for continuing, under certain Limitations, the Powers given to the judges for altering the Forms of Pleading in the Courts of Common Law at *Westminster* and elsewhere.

ci, An Act to revive and continue an Act of the First and Second Years of His late Majesty, to enable His Majesty to make Leases, Copies, and Grants of Offices, Lands, and Hereditaments Parcel of the Duchy of *Cornwall* or annexed to the same; and to make Provision for rendering to Parliament annual Accounts of the Receipts and Disbursement of the Duchies of *Cornwall* and *Lancaster*.

cii. An Act to revive and continue, until Six Months after the commencement of the next Session of Parliament, and to amend, an Act for authorising Her Majesty to carry into immediate Execution by Orders in Council any Treaties made for the Suppression of the Slave Trade.

ciii. An Act to restrain the Alienation of Corporate Property in certain Towns in *Ireland*.

civ. An Act to authorize the County of *Clare* to borrow a sum of Money for the Relief of the Creditors and others remaining unpaid by reason of the Default of the late Treasurer of the said County, to provide for the Repayment of the same, and to direct Proceedings to be taken in reference to the Default of such late Treasurer.

cv. An Act to remove Doubts as to the Validity of certain Oaths.

cvi. An Act to abridge the holding of Benefices in Plurality, and to make better Provision for the Residence of the Clergy.

cvii. An Act to amend and render more effectua the Church Building Acts.

cviii. An Act for suspending until the First Day of *August* One thousand eight hundred and thirty nine, and to the End of the then Session of Parliament, the appointment to certain Dignities and Offices in Cathedral and Collegiate Churches, and to Sinecure Rectories.

cix. An Act to abolish Compositions for Tithes in *Ireland*, and to substitute Rent charges in lieu thereof.

cx. An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain cases; for extending the Remedies of Creditors against the Property of Debtors; and for amending the Laws for the Relief of Insolvent Debtors in *England*.

cxi. An Act to apply a sum out of the Consolidated Fund, and the Surplus of Ways and Means, to the Service of the Year One thousand eight hundred and thirty eight, and to appropriate the Supplies granted in this Session of Parliament.

cxii. An Act for indemnifying those who have issued or acted under certain Parts of a certain Ordinance made under colour of an Act passed in the present Session of Parliament, intitled *An Act to make temporary Provision for the Government of* Lower Canada.

cxiii. An Act to amend the Laws relating to the Customs.

cxiv. An Act to amend the Law of *Scotland* in matters relating to Personal Diligence, Arrestments, and Poindings.

cxv. An Act to amend an Act of the Sixth and Seventh Years of His late Majesty, for the uniform Valuation of Lands and Tenements in *Ireland*, and for incorporating detached Portions of Counties and Baronies with those Counties and Baronies respectively whereto the same may adjoin or wherein the same are locally situate.

cxvi. An Act to facilitate Advances out of County Monies for the Support of County Gaols and Institutions in *Ireland*.

cxvii. An Act to provide for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament by Subscribers to Works or Undertakings to be effected under the Authority of Parliament.

cxviii. An Act to make certain Alterations in the Duties of the Lords Ordinary, and in the Establishment of Clerks and officers of the Court of Session and Court of Commissioners for Tiends in *Scotland*, and to reduce the Fees payable in those Courts.

cxix. An Act to regulate the Constitution, Jurisdiction, and Forms of Process of Sheriff Courts in *Scotland*.

cxx. An Act for the Abolition of the Duties payable on the Coinage of Tin in the Counties of *Cornwall* and *Devon*, and for giving Compensation in lieu of such Duties, and to reduce the Duties of Customs payable on Tin.

LOCAL AND PERSONAL ACTS,

DECLARED PUBLIC,

AND TO BE JUDICIALLY NOTICED.

i. An Act for making and maintaining a Harbour and other Works at *Paington* in the County of *Devon.*

ii. An Act for better paving, cleansing, lighting, watching, and otherwise improving the Town of *Milton-next-Sittingborne* in the County of *Kent*

iii. An Act to alter and enlarge some of the Provisions of an Act psssed in the Third Year of the Reign of His late Majesty King *William* the Fourth, for better repairing the Roads from *Warminster* and from *Frome* to the *Bath* Road, and other Roads therein mentioned.

iv. An Act for extending the time for completing the *London* and *Greenwich* Railway.

v. An Act for regulating the Market in the Town *Exmouth* in the County of *Devon.*

vi. An Act for repairing and improving the Road leading from *Haleworthy* in the Parish of *Davidstow* in the County of *Cornwall* to the East End of *Wadebridge*, and from the West End of *Wadebridge* into and through the Borough of *Mitchell* in the said County; and for making and maintaing certain new Roads to communicate therewith.

vii. An Act for more effectually repairing and keeping in repair certain Roads in the County of *Kincardine.*

viii. An Act to repeal an Act passed in the Forty-sixth Year of the Reign of His Majesty King *George* the Third, for improving the Navigation of the River *Ribble* in the County Palatine of *Lancaster*, and for the further Improvement of the Navigation of the said River.

ix. An Act to amend the several Acts relating to the *West India* Dock Company and the *East India* Dock Company; and to consolidate the said Companies.

x. An Act for building a Bridge over the River *Thames* from *Cookham* in the County of *Berks* to the opposite Shore in the County of *Bucks.*

xi. An Act for establishing a Floating Bridge or Bridges over the Harbour of *Portsmouth* from or near a place called *Gosport Beach*, in the Parish of *Alverstoke* in the County of *Southampton*, to the opposite Shore, to or near a place called *Portsmouth Point*, in the Parish of *Portsmouth* in the said County, with proper Approaches thereto.

xii. An Act for providing Market Places, and for regulating the Markets, within the Borough of *Brecon* in the County of *Brecon.*

xiii. An Act for the Improvement of the Borough of *Tenby* in the County of *Pembroke*; and for regulating and maintaining the Harbour and Pier belonging thereto.

xiv. An Act to amend an Act of the Forty eighth Year of the Reign of His Majesty King *George* the Third relating to the Improvement of the Town of *Leominster.* in the County of *Hereford.*

xv. An Act for the more easy and speedy Recovery of Small Debts within the Town of *Ashby-de-la-Zouch* and other Places in Counties of *Leicester. Derby. Warwick,* and *Stafford.*

xvi. An Act for more effectually repairing and maintaining the Road from *Top of Odsall* near *Bradford* through *Wibsey Low Moor* to *Hudderfield* in the West Riding of the County of *York.*

xvii. An Act for repairing, amending, and maintaining the Road from *Shrewsbury* through *Ellesmere* in the County of *Salop*, to *Wrexham* in the County of *Denbigh*, and other Roads branching out of the same.

xviii. An Act for making a Turnpike Road from *Combmartin* in the County of *Devon* to *Bratton Down* in the same county, and several other Roads in the Neighbourhood thereof.

xix. An Act to alter and amend the Powers and Provisions of an Act relating to the *Lower King's Ferry* Roads in the Counties of *Flint* and *Chester*, and for making a new Road to commuuicate therewith; and for other Purposes relating thereto.

xx. An Act to enable the *London* and *Croydon* Railway Company to enlarge their Station in the Parish of *Saint Olave* in the Borough of *Southwark*, in the County of *Surrey*, and to amend the Acts relating to the said Railway and Station.

xxi. An Act to enable the *St. Helen's* and *Runcon Gap* Railway Company to raise a further Sum of Money, and for amending the Provisions of the several Acts relating to such Railway.

xxii. An Act to enable the *Brandling* Junction Railway Company to raise an additional Sum of Money.

xxiii. An Act to authorize the *Newcastle-upon-Tyne* and *Carlisle* Railway Company to raise an additional Sum of Money for the Purposes of their Undertaking.

xxiv. An Act to alter the line of the *Cheltenham* and Great Western Union Railway, and to amend the Act relating thereto.

xxv. An Act for enabling the Company of Proprietors of the *Manchester*, *Bolton*, and *Bury* Canal Navigation and Railway to raise more money; and for amending the Powers and Provisions of the several Acts relating thereto.

xxvi. An Act for making several Branches in the County of *Somerset* from the Line of the *Bristol* and *Exeter* Railway, and for amending the Act relating to such Railway.

xxvii. An Act for making a Railway from *Penhil* in the Parish of *Fremington*, in the County of

Devon to the Town of *Barnstaple*, and for constructing a Dock in the said Parish of *Fremington*, to be called "The *Taw Vale* Railway and Dock."

xxviii. An Act for making and maintaining a Pier or Jetty and other Works at the Town and Borough of *Deal* in the Parish of *Deal* in the County of Kent.

xxix. An Act for supplying with Water the Town of *Bury*, and the several Townships of *Walmersley-cum-Shuttleworth*, *Bury*, and *Elton*, all in the Parish of *Bury* in the County Palatine of *Lancaster*.

xxx. An Act to amend an Act for making and maintaining the *Turton* and *Entwistle* Reservoir.

xxxi. An Act for building a Bridge over the River *Wye* at a Place called *Boughrood Ferry*, in the Counties of *Brecon* and *Radnor*, and for making convenient Approaches thereto.

xxxii An Act to amend an Act passed in the Fifth and Sixth Year of the Reign of King *William* the Fourth, regarding *Londonderry Bridge*; and to amend several Acts relating to the City and Port of *Londonderry*.

xxxiii. An Act to amend an Act passed in the Third Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for paving, lighting, watching, cleansing, and otherwise improving the Township or Chapelry of* Birkenhead *in the County Palatine of* Chester, *and for regulating the Police thereof, and for establishing a Market within the said Township.*

xxxiv. An Act for making a new Street or Thoroughfare, and widening and improving certain other Streets or Thoroughfares, within the Town and Borough of *Sheffield* in the County of *York*.

xxxv. An Act for establishing a general Cemetery in the Parish of *Gravesend* in the County of *Kent*.

xxxvi. An Act for the more easy and speedy Recovery of Small Debts within the Parishes of *Oakham* and *Uppingham*, and other Places, in the Counties of *Rutland*, *Leicester*, and *Northampton*.

xxxvii. An Act for inclosing Lands within the Townships or Divisions of *Strickland Roger*, *Whinfell*, and *Helsington* in the Parish of *Kirkby in Kendal* in the County of *Westmorland*; and for draining and improving certain Lands in the said Township of *Helsington*, and in the Townships of *Underbarrow* and *Bradley Field* and *Levens*, in the Parishes of *Kirkby in Kendal* and *Heversham* in the same County.

xxxviii. An Act for making, repairing, and maintaining certain Roads in Her Majesty's Forest of Dean, and the Waste Lands belonging to the said Forest, and in several Parishes adjoining thereto, in the County of *Gloucester*.

xxxix. An Act for more effectually amending and improving the Roads from *Buckstones* by *Barkisland School* to the *Rochdale* and *Elland* Turnpike Road, near the Town of *Elland*, and from *Sykehouse* to the Highway leading from *Barkisland* to *Stainland*, all in the West Riding of the County of *York*.

xl. An Act for repairing the Road from *French Top* in the West Riding of the County of *York* to *Stayley* in the County Palatine of *Chester*.

xli. An Act to alter, amend, and enlarge the Powers and Provisions of an Act passed in the Seventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for repairing the Road from the Thirty-three Mile Stone in the Parish of* Ruscombe *in the County of* Berks, *towards* Reading, *to a Place called* The Seven Mile Stone, *in the Parish of* Beenham, *in the said County, and a certain other Road communicating therewith.*

xlii. An Act for repairing and maintaining a Road from near *Salterhebble* in the Parish of *Halifax* to the *Huddersfield* and *New Hey* Turnpike Road in the Parish of *Huddersfield*, and to *Sowerby Bridge* in the said Parish of *Halifax*, all in the West Riding of the County of *York*, with a Bridge on the Line of the said Road.

xliii. An Act for repairing and maintaining the Roads leading from *Wakefield* to *Halifax*, and from near *Hipperholm Bar* to near *Stump Cross*, all in the West Riding of the County of *York*.

xliv. An Act for repairing and maintaining the Road leading from the South End of *Angel Lane* in *Brampton Bierley* to a certain public Highway in *Mexbrough*, and from *Clegg's Cottage* in *Rawmarsh* to the West End of the Village of *Hooton Roberts* in the County of *York*.

xlv. An Act for repairing, maintaining, and improving the Road leading from *Towcester* to the Turnpike Road in *Cotton End* in the Parish of *Hardingston* in the County of *Northampton*.

xlvi. An Act for repairing and maintaining the Road from *Aylesbury* to *Thame*, and the Roads from *Thame* to *Oxford*, *Shillingford*, *Postcomb*, and *Bicester*, in the Counties of *Buckingham* and *Oxford*.

xlvii. An Act to repeal as much of an Act, intituled *An Act for making and maintaining the Road from* Glasgow *to* Redburn Bridge, *and certain other Roads, in the Counties of* Stirling, Dumbarton, *and* Lanark, as relates to the *Balmore* Road; and to improve and make and maintain the said Road, and certain other Roads connected therewith, in the Parishes of *Campsie* and *Baldernock* and County of *Stirling* aforesaid.

xlviii. An Act for repairing and maintaining the Road from *Quebec* to *Homefield Lane End*, all in the Parish of *Leeds* in the West Riding of the County of *York*, with a Bridge or Bridges on the Line of such Road.

xlix. An Act for repairing the Road from *Maulden Wood Corner* to *Westwood Gate* in the County of *Bedford*.

l. An Act for better lighting with Gas the Town and Township of *Blackburn* in the County Palatine of *Lancaster*.

li. An Act to enable the *Exeter* Commercial Gas Light and Coke Company to raise a further Sum of Money.

lii. An Act to amend an Act of King *George* the Fourth, for lighting with Gas the Borough of *Leicester* in the County of *Leicester*, and the Liberties, Precincts, and Suburbs thereof.

liii. An Act for lighting with Gas the Town of *Leamington Priors*, and the Neighbourhood thereof, in the County of *Warwick*.

liv. An Act for the Erection of a new Church in the Parish of *Lee* in the County of *Kent*.

lv. An Act for the Erection and Endowment of a Chapelry for the District of *Lower Beeding* in the County of *Sussex*, and for other Purposes.

lvi. An Act for enabling the *Bolton* and *Preston* Railway Company to extend and alter the Line of such Railway, and to make collateral Branches thereto, and for amending and enlarging the Powers and Provisions of the Act relating thereto.

lvii. An Act for amending and enlarging the Provisions of the Act relating to the Midland Counties Railway, and for making a Branch therefrom to the Town of *Mountsorrel* in the County of *Leicester*.

lviii. An Act for making a Railway from *Edinburgh* to *Glasgow*, to be called "The *Edinburgh* and *Glasgow* Railway," with a Branch to *Falkirk*.

lix. An Act to alter, amend, extend, and enlarge the Powers and Provisions of the several Acts relating to the Grand Junction Railway, and for other Purposes connected therewith.

lx. An Act for altering and amending several Acts relating to the *Garnkirk* and *Glasgow* Railway; and for enabling the Company to raise a further Sum of Money.

lxi. An Act to enable the *Newtyle* and *Coupar Angus* Railway Company to raise a further Sum of Money.

lxii. An Act for extending the Time for making a Dock or Docks at *Southampton*.

lxiii. An Act to amend and enlarge the Powers and Provisions of an Act passed in the First and Second Years of the Reign of King *William* the Fourth, for erecting and maintaining a Pier and other Works for landing and embarking Passengers in the Port of the Town of *Southampton*.

lxiv. An Act for making and maintaining a Reservoir at *Deanhead* in the Parish of *Huddersfield* in the West Riding of the County of *York*, and for other Purposes relating thereto.

lxv. An Act for building a Bridge over the River *Dove* at *Rocester* in the County of *Stafford*.

lxvi. An Act for building a Bridge from the Parish of *Saint Philip and Jacob* over the Floating Harbour to the Parish of *Temple* in the City and County of *Bristol*.

lxvii. An Act to repeal, amend, and enlarge some of the Provisions of the Act relating to the Metropolitan Suspension Bridge.

lxviii. An Act for building a Bridge over the River *Tweed* between *Ladykirk* in the County of *Berwick* and *Norham* in the County of *Durham*, and for making Avenues and Approaches thereto.

lxix. An Act for amending the Provisions of Two Acts of Parliament relating to the City of *Hereford*; and for limiting the Duration of *St. Ethelbert's* or the Nine Days Fair held annually in the said City.

lxx. An Act for better paving, lighting, watching, and improving the Parish of *Ramsgate* in the County of *Kent*, and for regulating the Police thereof.

lxxi. An Act to incorporate the Subscribers to the Institution called "The Refuge for the Destitute," and for the better enabling them to carry on their charitable Designs.

lxxii. An Act to incorporate the Governors and Subscribers to *St. Luke's Hospital* for Lunatics, and for better enabling them to carry on their charitable Designs.

lxxiii. An Act for more effectually repairing and maintaining the Road from *Borrowstounness*, by the West End of *Linlithgow*, and by *Torphichen*, *Bathgate*, and *Whitburn*, to the Confines of the County of *Linlithgow* at or near *Hollhouseburn*; the Road from *Borrowstounness* to the River *Avon*; and the Road leading Eastward from *Borrowstounness* to *Champany* by the Kirk of *Carriden* in the County of *Linlithgow*.

lxxiv. An Act for more effectually repairing the Road from *Dundalk* to *Dunleer* in the County of *Louth*.

lxxv. An Act for repairing and maintaining the Road from *Lutterworth Hand* on the *Watling Street Road*, through *Churchover*, *Brownsover*, *Newbold-upon-Avon*, *Rugby*, and *Bilton*, in the County of *Warwick*, to the Turnpike Road between *Dunchurch* and *Hillmorton* in the said County.

lxxvi. An Act to repeal the *Wadsley* and *Langset* Turnpike Road Act so far as relates to the *Wadsley* and *Langset* District of the said Road in the West Riding of the County of *York*, and to make new Provisions in lieu thereof; and also for extending the said District of Road to or near to *Moorfields* in the Parish of *Sheffield*; and for other Purposes:

lxxvii. An Act to vary and alter the Lines of the *Kirkstall*, *Ilkley*, and *Shipley* District of Road, and for making a new Road from the *Otley* Branch Road in the said District to *Burley* in the Parish of *Otley*, all in the West Riding of the County of *York*.

lxxviii. An Act for amending an Act of King *George* the Third, for draining Lands in *South Holland*, and for repairing and maintaining the Road from *Spalding High Bridge* to *Brother House*, all in the County of Lincoln.

lxxix. An Act for altering and amending an Act of the Eleventh Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for making, repairing, widening, and keeping in repair certain Roads and Bridges in the County of* Caithness; *and for better regulating and rendering more effectual the Statute Labour in the said County, and Conversion Money in lieu thereof.*

lxxx. An Act for granting further Powers to the *Festiniog* Railway Company.

lxxxi. An Act to amend and enlarge the Powers and Provisions of the Act relating to the Eastern Counties Railway.

lxxxii. An Act to alter the Line of the *Birmingham* and *Derby* Junction Railway.

lxxxiii. An Act for making a new Street from *Holborn Bridge* in the City of *London* towards *Clerkenwell Green*.

lxxxiv. An Act for maintaining the Pier and Harbour of *Newquay* in the County of *Cornwall*.

lxxxv. An Act to repeal an Act of the last Session of Parliament, for improving the Harbour of *Fishguard* in the County of *Pembroke*.

lxxxvi. An Act to alter and amend, and in part repeal, the Powers of certain Acts for supplying the City of *Glasgow* and Suburbs with Water; to enable the Company of Proprietors of the *Glasgow* Waterworks to purchase the *Cranstonhill* Waterworks, and to raise a further Sum of Money; and to alter the Rates leviable by the said Company of Proprietors.

lxxxvii. An Act for draining and embanking certain Lands in *Lough Swilly* and *Lough Foyle* in the Counties of *Donegal* and *Londonderry*.

lxxxviii. An Act for establishing a Steam Communication over *Milford Haven* at or near *Pembroke Ferry* in the County of *Pembroke*.

lxxxix. An Act to amend an Act for the Amendment of Four several Acts, passed in the Fifth, Sixth, Tenth, and Forty-seventh Years of the Reign of His late Majesty King *George* the Third, for the Recovery of Small Debts within the Hundreds of *Blackheath*, of *Bromley* and

Beckenham, of *Rokesley*, otherwise *Ruxley*, and of *Little* and *Lesness*, in the County of *Kent*, and within the Hundred of *Wallington* in the County of *Surrey*; and to extend the Powers thereof.

xc. An Act for the more easy and speedy Recovery of Small Debts within the Town of *Barnsley* and other Places in the West Riding of the County of *York*.

xci. An Act to rectify a Mistake in an Act passed in the present Session of Parliament for the Recovery of Small Debts within the Town of *Ashby-de-la-Zouch* and other Places in the Counties of *Leicester, Derby, Warwick,* and *Stafford*.

xcii. An Act to enable "The National Loan Fund Life Assurance Society" to sue and be sued in the Name of the Chairman or Secretary, or any One Director of the said Society.

xciii. An Act for repairing and maintaining the Road from the *Leeds* and *Halifax* Turnpike Road at *Stanningley* to the Bridge over the *Leeds* and *Liverpool* Canal, and making and maintaining a Continuation of the same Road to *Water Lane* in *Leeds*, and other Roads communicating therewith, all in the West Riding of the County of *York*.

xciv. An Act for more effectually repairing, improving, and maintaining the *Dudley Hill* and *Killinghall* Turnpike Road, and for making a new Road therefrom to communicate with the *Leeds* and *Harrogate* Turnpike Road, all in the West Riding of the County of *York*.

xcv. An Act for dividing, allotting, and inclosing Common and Waste Lands called *Portfield* otherwise *Poorfield*, in the County of the Town of *Haverfordwest*.

xcvi. An Act for enlarging and extending the Powers, and altering and amending the Provisions of an Act passed in the Sixth Year of the Reign of King *George* the Fourth, intituled *An Act for lighting with Gas the Town of* Oldham *and the Neighbourhood thereof within the Parish of* Priestwich-cum-Oldham *in the County Palatine of* Lancaster, *and for the better supplying the Inhabitants of the said Town and Neighbourhood with Water.*

xcvii. An Act for forming and regulating a Company to be called "The *India* Steam Ship Company," and to enable the said Company to purchase certain Letters Patent.

xcviii. An Act for uniting the Medieties of the Rectory of *Liverpool* in the County Palatine of *Lancaster*, and for the better Endowment thereof, and of certain Churches in the said Town.

xcix. An Act for amending certain Acts relating to the Civil Court of Record of the Borough of *Liverpool*, and improving the Proceedings thereof.

c. An Act for improving the Site of the Royal Exchange in the City of *London*, and the Avenues adjoining thereto.

ci. An Act to continue for Seven Years an Act for regulating the Vend and Delivery of Coals in *London* and *Westminster*, and in certain Parts of the adjacent Counties.

cii. An Act for forming and establishing "The Colonial Patent Sugar Company," and to enable the said Company to purchase certain Letters Patent.

PRIVATE ACTS,

PRINTED BY THE QUEEN'S PRINTER, AND

WHEREOF THE PRINTED COPIES MAY BE GIVEN IN EVIDENCE.

1. AN Act for dividing, allotting, and inclosing a certain Tract of uninclosed Common or Waste Land called *Ogley Hay*, in the County of *Stafford*.
2. An Act for inclosing Lands in the Parish of *Sutton* in the *Isle of Ely* and County of *Cambridge*.
3. An Act for inclosing Lands in the Parish of *Quedgley* in the County of *Gloucester*.
4. An Act for authorizing the Sale of Part of the Settled Estates of *Christopher Turnor* Esq., and for investing the Monies arising from such Sale in the Purchase of other more convenient Estates, to be settled to the same Uses.
5. An Act for inclosing Lands in the Parish of *Bratton Fleming* in the County of *Devon*.
6. An Act for inclosing Lands in the Parish of *Swavesey* in the County of *Cambridge*.
7. An Act for inclosing Lands in the Parish of *Linton* in the County of *Cambridge*.
8. An Act for inclosing Lands in the Parish of *Witcham* in the *Isle of Ely* in the County of *Cambridge*.
9. An Act for inclosing Lands in the Parishes of *Wickwar, Cromhall,* and *Tortworth* in the County of *Gloucester*.
10. An Act for inclosing Lands in the Parish of *Chesterton* in the County of *Cambridge*.
11. An Act for inclosing Lands in the Parish of *Higham Ferrers* in the County of *Northampton*.
12. An Act for inclosing Lands in the Parishes of *Berden, Manewden,* and *Stansted Mountfitchet* in the County of *Essex*.
13. An Act for inclosing Lands in the Manors of *Bishop's Castle* and *Munslow* in the County of *Salop*.

14. An Act for authorizing the Investment of a Fund under the Will and Codicil of the Most Noble *Charles* late Duke of *Norfolk* in the Purchase of Estates in any Part of *England.*
15. An Act for the Sale of the Advowson of the Vicarage of *Painswick* in the County of *Gloucester.*
16. An Act for dividing, allotting, and inclosing the Open and Common Fields, Meadows, Lands, Commons, and Commonable Places in the Parish of *Fen Drayton* in the County of *Cambridge.*
17. An Act for inclosing Lands in the Township of *Curbridge* in the Parish of *Witney* in the County of *Oxford.*
18. An Act for inclosing Lands in the Parish of *Gazeley* in the County of *Suffolk.*
19. An Act for inclosing Lands in the Parishes of *Pulham Saint Mary the Virgin* and *Pulham Saint Mary Magdalene* in the County of *Norfolk.*
20. An Act for inclosing Lands in the Manor of *Great Warley* in the several Parishes of *Great Warley and Shenfield* in the County of *Essex.*
21. An Act for authorizing the granting of Leases of Part of the Estates in the County of *Carnarvon* devised by the Will of the late *Richard Parry* Esquire.
22. An Act to explain and extend the Powers of the Trustees of Lady *Glenorchy*'s Chapel and School in *Edinburgh.*
23. An Act for authorizing the Sale, Exchange, and Partition of the Real Estate devised by the Will of *Richard Henry Alexander Bennet* Esquire, deceased, and for the Application of the Produce thereof; and for authorizing the granting of Leases of the same Estate; and for authorizing the Investment in Land of the residuary Personal Estate bequeathed by the same Will; and for other Purposes.
24. An Act for giving Effect to certain Powers of Appointment over Settled Estates of the Duke of *Norfolk*, so that by the Exercise of such Powers the Estates to be appointed may be discharged from the Countess of *Surrey*'s Pin Money; and for discharging certain Parts of the said Settled Estates from the Portions of the Daughters and younger Sons of the Earl and Countess of *Surrey.*
25. An Act to enable the Governors of the Possessions, Revenues, and Goods of the Free Grammar School of King *Edward* the Sixth in *Macclesfield* in the County of *Chester* to establish a Second School, to be called " The Modern Free School in *Macclesfield* in the County of *Chester;*" and for other Purposes.
26. An Act for renewing, granting, and confirming certain joint Powers of Appointment to the Honourable *John Simpson* and *Henry Bridgeman Simpson* his eldest Son, and certain sole Powers of Appointment, and of Revocation and new Appointment, to the said *Henry Bridgeman Simpson;* and for establishing and confirming certain Indentures of Settlement made on the Marriage of the said *Henry Bridgeman Simpson* respectively affecting the Estates of the said *John Simpson* and *Henry Bridgeman Simpson* in the several Counties of *Nottingham, Derby, York*, and *Warwick.*
27. An Act for effecting an Exchange of Lands in the County of *Glamorgan* between *Morgan Popkin Traherne* Esquire and the Right Honourable Sir *John Nicholl* Knight.
28. An Act for authorizing the Sale of Part of the Estates devised by the Will of *Samuel Smith* Esquire, deceased, and for investing the Proceeds of such Sale in the Purchase of other Estates, to be settled upon the same Trusts.
29. An Act to confirm a Division already made and to enable a further Division of the residuary Personal Estate of *William Gray*, deceased, and to determine the Right of Survivorship and Contingency affecting the same.
30. An Act for effecting an Exchange between the Warden and Fellows of the College of *All Souls, Oxford*, and *Thomas Penrice* Esquire.
31. An Act to authorize the making of Conveyances in Fee or Demises for long Terms of Years of Estates devised by or settled to the Uses of the Will of *Thomas Peter Legh* Esquire, deceased, for building on or otherwise improving the same, under yearly Rents to be reserved in the same Conveyances and Demises, and to sell certain Parts of the said Estates, and to purchase other Estates in lieu thereof, under the Control of the Court of Chancery; and for other Purposes connected with the same Estates.
32. An Act for enabling the Trustees of certain Lands situate in the Parish of *Paddington* in the County of *Middlesex* to grant Building Leases of the said Lands, and for other Purposes.
33. An Act for authorizing the Mayor, Aldermen, and Burgesses of the Borough of *Sudbury* in the County of *Suffolk* to release and discharge from Shackage and Commonage certain Lands within the said Borough, and for other Purposes relating to other Lands belonging to the said Borough.
34. An Act for authorizing the Sale and Exchange of the Real Estate devised by the Will of the Right Honourable *William Henry* Earl of *Rochford* deceased, and for the Application of the Produce thereof, and for authorizing the granting of Leases of the same Estate; and for other Purposes.
35. An Act for enabling the Governors of the Possessions, Revenues, and Goods of the Free Grammar School of the Parishioners of the Parish of *Saint Saviour* in *Southwark* in the County of *Surrey* to sell the old School and Schoolhouse and the Site thereof; and also for enabling the Right Reverend *Charles Richard* Lord Bishop of *Winchester* and his Lessees to grant to the said Governors another Site for the Purpose of a more convenient School and Schoolhouse and proper Offices being erected thereon.

PRIVATE ACTS,

NOT PRINTED.

36. An Act for naturalizing *James Patry.*
37. An Act for naturalizing *Peter Jos. Meugens.*
38. An Act for naturalizing *Alexander Constantine Ionides.*
39. An Act for naturalizing *Frederick Schwann.*
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